

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

- - - - -x
CAPITAL ONE TAXI MEDALLION FINANCE,

Plaintiff,

-against- Index No: 608014/2015

JEB MANAGEMENT CORP. and RUBEN ELBERG,

Defendants.

- - - - -x
875 Third Avenue
New York, New York

June 22, 2017
9:54 a.m.

EXAMINATION BEFORE TRIAL of RUBEN ELBERG,
the Judgment Debtor in the above-entitled
action, held at the above time and place, taken
before Alice Schulman, a Notary Public of the
State of New York, pursuant to Subpoena and
stipulations between Counsel.

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| <p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 4 TROUTMAN SANDERS LLP 5 Attorneys for Plaintiff/ 6 Judgment Creditor CAPITAL ONE 7 TAXI MEDALLION FINANCE, a trade 8 name for All Points Capital 9 Corp., N/K/A Capital One 10 Equipment Finance Corp. 11 875 Third Avenue 12 New York, New York 10022 13 14 BY: JONATHAN D. FORSTOT, ESQ., 15 ANDREW BUCK, ESQ. 16 17 ABRAMS, FENSTERMAN, FENSTERMAN, EISMAN, 18 FORMATO, FERRARA & WOLF, LLP 19 Attorneys for RUBEN ELBERG 20 3 Dakota Drive - Suite 300 21 Lake Success, New York 11042 22 23 BY: BRIAN T. MCCARTHY, ESQ. 24 25 * * *</p> | <p style="text-align: right;">Page 4</p> <p>1 2 IT IS FURTHER STIPULATED, a copy of this 3 examination shall be furnished to the attorney 4 for the witness being examined without charge. 5 * * * 6 RUBEN ELBERG, the Witness herein, 7 having first been duly affirmed by the Notary 8 Public, was examined and testified as follows: 9 EXAMINATION BY 10 MR. FORSTOT: 11 Q. What is your name? 12 A. Ruben Elberg. 13 Q. Where do you reside? 14 A. 1523 President Street, Brooklyn, 15 New York 11213. 16 Q. Mr. Elberg, I'm Jonathan Forstot of 17 Troutman & Sanders on behalf of Capital One. 18 Have you been deposed before? 19 A. Maybe once before. 20 Q. Maybe once, you're not sure? 21 A. Once before, yes. 22 Q. So you know how this works? 23 A. Not very well. If you can explain, 24 I would appreciate it. 25 Q. I'll be asking you questions and</p> |
| <p style="text-align: right;">Page 3</p> <p>1 2 STIPULATIONS 3 IT IS HEREBY STIPULATED, by and between the 4 attorneys for the respective parties hereto, 5 that: 6 All rights provided by the C.P.L.R., and 7 Part 221 of the Uniform Rules for the Conduct of 8 Depositions, including the right to object to 9 any question, except as to form, or to move to 10 strike any testimony at this examination is 11 reserved; and in addition, the failure to object 12 to any question or to move to strike any 13 testimony at this examination shall not be a bar 14 or waiver to make such motion at, and is 15 reserved to, the trial of this action. 16 This deposition may be sworn to by the 17 witness being examined before a Notary Public 18 other than the Notary Public before whom this 19 examination was begun, but the failure to do so 20 or to return the original of this deposition to 21 counsel, shall not be deemed a waiver of the 22 rights provided by Rule 3116, C.P.L.R., and 23 shall be controlled thereby. 24 The filing of the original of this 25 deposition is waived.</p> | <p style="text-align: right;">Page 5</p> <p>1 Ruben Elberg 2 you're under oath. The court reporter will take 3 down a transcript of everything we say, so make 4 sure your answers are oral, not nods of the 5 head, no gestures. 6 A. No problem. 7 Q. We need to have a written 8 transcript of this. If you don't understand 9 anything I ask you, please let me know and I'll 10 try to rephrase it so you understand the 11 question, okay? 12 A. Yes. 13 Q. You gave an address to the court 14 reporter, that's where you presently live? 15 A. Yes. 16 Q. Do you have any other residences 17 besides that? 18 A. No. 19 Q. You are therefore a resident of the 20 State of New York, correct? 21 A. Yes. 22 Q. Who else lives at that address with 23 you? 24 A. My wife and nine children. 25 Q. Anybody else?</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 Ruben Elberg</p> <p>2 A. No.</p> <p>3 Q. What kind of structure, is it a</p> <p>4 house, an apartment?</p> <p>5 A. A private house.</p> <p>6 Q. So a stand-alone house?</p> <p>7 A. Yes.</p> <p>8 Q. On President Street?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Who owns the house?</p> <p>11 A. I do with my wife.</p> <p>12 Q. You said nine of your children live</p> <p>13 there?</p> <p>14 A. Yes.</p> <p>15 Q. You have a total of 14 children?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Where are the other children who</p> <p>18 don't live with you?</p> <p>19 A. Some of them are married, and some</p> <p>20 of them are in Yeshivas, and then when they come</p> <p>21 back, they live with us for a month or two and</p> <p>22 then they go back. They're not steadily in our</p> <p>23 home, they're in Yashivas.</p> <p>24 Q. Are the Yashivas in New York?</p> <p>25 A. One was in Westchester, one was in</p> | <p style="text-align: right;">Page 8</p> <p>1 Ruben Elberg</p> <p>2 these other litigations, correct?</p> <p>3 A. Yes. I shouldn't say that, forgive</p> <p>4 me. There were some documents translated from</p> <p>5 English to Chinese when we went out to market</p> <p>6 one of the projects we were involved in, so I</p> <p>7 want to correct my answer.</p> <p>8 Q. Listen carefully to my question.</p> <p>9 Did you have to have any document translated</p> <p>10 from English into another language for you to be</p> <p>11 able to understand if?</p> <p>12 A. No, not for me.</p> <p>13 Q. Let's go over, why don't you tell</p> <p>14 me the names, ages of your 14 children and who</p> <p>15 lives with you and who doesn't.</p> <p>16 A. We have Baruch who is nine years</p> <p>17 old.</p> <p>18 Q. He lives where?</p> <p>19 A. With us. Channa who is 12 years</p> <p>20 old, she lives with us. We have Ahron, he's 13,</p> <p>21 he lives with us. We have Levi who is his twin,</p> <p>22 also 13.</p> <p>23 Q. He lives with you?</p> <p>24 A. With us, yes. We have Yisrael,</p> <p>25 he's 15. If I'm off a little bit on the ages,</p> |
| <p style="text-align: right;">Page 7</p> <p>1 Ruben Elberg</p> <p>2 Los Angeles, which is shlichus, he's an emissary</p> <p>3 from higher rabbinical school, and the other one</p> <p>4 was in France. S-H-L-I-C-H-U-S, it's a Hebrew</p> <p>5 word.</p> <p>6 Q. Is English your native language?</p> <p>7 A. No, I was born in Russia.</p> <p>8 Q. What languages do you speak besides</p> <p>9 English?</p> <p>10 A. Russian, Hebrew, I understand</p> <p>11 Yiddish and Georgian and English.</p> <p>12 Q. Do you conduct business in English?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Do you believe you need an</p> <p>15 interpreter to understand any of my questioning?</p> <p>16 A. I don't believe so. If I have</p> <p>17 questions, I'll try to ask you to clarify.</p> <p>18 Q. You're involved in several</p> <p>19 litigations, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Have you had to have any documents</p> <p>22 in any of those litigations translated for you</p> <p>23 into a language other than English?</p> <p>24 A. No.</p> <p>25 Q. So you've been using English in</p> | <p style="text-align: right;">Page 9</p> <p>1 Ruben Elberg</p> <p>2 forgive me. I believe I'm telling you</p> <p>3 everything correctly. Yisrael, we have Moshe.</p> <p>4 Q. Wait, where does Yisrael live?</p> <p>5 A. With us. We have Moshe who is 17.</p> <p>6 He is in Yashiva in Westchester, and he just</p> <p>7 came back just recently. So his summer, he is</p> <p>8 at home.</p> <p>9 Q. Is he going to go back to Yashiva</p> <p>10 after the summer?</p> <p>11 A. I don't know. I don't know where.</p> <p>12 We are working on it, we just don't know which</p> <p>13 Yashiva yet. We have Shneur, he is 19, and he</p> <p>14 was in Brunoy, France.</p> <p>15 Q. How do you spell that?</p> <p>16 A. B-R-O-I-N-O, Brunoy, France, in</p> <p>17 Yashiva. And we have Josef, he's 22. He was in</p> <p>18 Yashiva in Los Angeles.</p> <p>19 Q. You said he was or is he?</p> <p>20 A. He is coming back, he was and he's</p> <p>21 coming back in a week, and I don't know what</p> <p>22 he's going to do next year. For the last year</p> <p>23 he was there. He's still there, and he's coming</p> <p>24 back in a week. Should I continue?</p> <p>25 Q. Yes, please.</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 Ruben Elberg</p> <p>2 A. Then we have David. He's supposed</p> <p>3 to be in Yashiva in Crown Heights.</p> <p>4 Q. How old is he?</p> <p>5 A. He's 23.</p> <p>6 Q. Does he live at home or at the</p> <p>7 Yashiva?</p> <p>8 A. Yes. And we have Mandel, he's</p> <p>9 married. He's 24 and a half I would say.</p> <p>10 Q. Where does Mandel live?</p> <p>11 A. In Crown Heights.</p> <p>12 Q. In his own place?</p> <p>13 A. He's renting an apartment.</p> <p>14 Q. Next.</p> <p>15 A. Then we have Miriam. She lives</p> <p>16 with us and she's a teacher.</p> <p>17 Q. How old?</p> <p>18 A. Twenty-six.</p> <p>19 Q. Okay.</p> <p>20 A. Then we have Shterna, she is 27 and</p> <p>21 she lives in her own home, she's married.</p> <p>22 Q. Where does she live?</p> <p>23 A. Crown Heights.</p> <p>24 Q. Okay.</p> <p>25 A. Then we have Dina.</p> | <p style="text-align: right;">Page 12</p> <p>1 Ruben Elberg</p> <p>2 Q. There's not somebody named Shabtai?</p> <p>3 A. Shabtai is Mandel. Shabtai</p> <p>4 Menachem, he has three names.</p> <p>5 Q. What is your name?</p> <p>6 A. Ruben Elberg.</p> <p>7 Q. Do you go by any other names?</p> <p>8 A. No.</p> <p>9 Q. Have you ever gone by any other</p> <p>10 name?</p> <p>11 A. No.</p> <p>12 Q. So --</p> <p>13 A. Do you have bottled water?</p> <p>14 MR. BUCK: He's looking for</p> <p>15 unopened.</p> <p>16 THE WITNESS: I appreciate it.</p> <p>17 Thank you so much.</p> <p>18 Q. Baruch is the youngest?</p> <p>19 A. Yes, sir.</p> <p>20 Q. He lives with you. Does he go to</p> <p>21 school?</p> <p>22 A. Yes, he goes to Yashiva.</p> <p>23 Q. Is there a tuition for that school?</p> <p>24 A. Yes, there is.</p> <p>25 Q. Who pays the tuition?</p> |
| <p style="text-align: right;">Page 11</p> <p>1 Ruben Elberg</p> <p>2 Q. Dina you said?</p> <p>3 A. Yes, she's 30 years old and she's</p> <p>4 married.</p> <p>5 Q. Where does Dina live?</p> <p>6 A. In Crown Heights.</p> <p>7 Q. But not with you?</p> <p>8 A. No.</p> <p>9 Q. The area of Brooklyn you live in,</p> <p>10 what area is that?</p> <p>11 A. Crown Heights.</p> <p>12 Q. So the President Street address is</p> <p>13 in Crown Heights?</p> <p>14 A. Yes.</p> <p>15 Q. Okay.</p> <p>16 A. Then we have Tsipora who is also a</p> <p>17 teacher and she's living in Crown Heights as</p> <p>18 well with us, and she's 30 years old.</p> <p>19 Q. You said she's a teacher?</p> <p>20 A. A teacher, yes.</p> <p>21 Q. And lives with you?</p> <p>22 A. With us in the house, yes. She's</p> <p>23 not married yet.</p> <p>24 Q. Is that everybody?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 13</p> <p>1 Ruben Elberg</p> <p>2 A. For the past two, three years,</p> <p>3 unfortunately I have not been able to pay the</p> <p>4 tuition, but I had a good track record in the</p> <p>5 past years with Yashivas, and they have been</p> <p>6 patient with me, so they have not been, you</p> <p>7 know, throwing my kids out of school.</p> <p>8 Q. So you haven't paid tuition in</p> <p>9 three years?</p> <p>10 A. Two and a half, three years, yeah.</p> <p>11 It's unfortunate, but that's the reality.</p> <p>12 Q. And Channa?</p> <p>13 A. She's also in Yashiva.</p> <p>14 Q. Sorry?</p> <p>15 A. She's also in Yashiva, in girl's</p> <p>16 Yashiva.</p> <p>17 Q. She lives with you but goes to a</p> <p>18 girl's Yashiva?</p> <p>19 A. Yes.</p> <p>20 Q. Who pays her tuition?</p> <p>21 A. Also the same thing, the first year</p> <p>22 maybe I paid a little bit, and the second year I</p> <p>23 paid something towards it, but I haven't paid</p> <p>24 anything in the past two years.</p> <p>25 Q. Levi and Ahron?</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 Ruben Elberg</p> <p>2 A. The same thing.</p> <p>3 Q. They live at home, they go to</p> <p>4 Yashiva but you're not paying tuition?</p> <p>5 A. Unfortunately I'm unable to.</p> <p>6 Q. Yisrael?</p> <p>7 A. Yisrael, the same thing.</p> <p>8 Q. Yisrael lives at home, goes to</p> <p>9 Yashiva, but you don't pay tuition?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Moshe?</p> <p>12 A. Moshe same thing. Moshe, the past</p> <p>13 two years I haven't paid tuition, but the last</p> <p>14 year now I paid some towards because he's out of</p> <p>15 town Yashiva, so you have to pay something. So</p> <p>16 I paid some money towards the tuition, but I</p> <p>17 still owe at least half of it, if not more.</p> <p>18 Q. So there's tuition and there's also</p> <p>19 living expenses; is that right?</p> <p>20 A. That's part of it, that's all</p> <p>21 inclusive.</p> <p>22 Q. How much is that on an annual basis</p> <p>23 for Moshe for the last year?</p> <p>24 A. I committed to approximately 65 or</p> <p>25 \$6,000 completely.</p> | <p style="text-align: right;">Page 16</p> <p>1 Ruben Elberg</p> <p>2 A. Yes.</p> <p>3 Q. But you don't know exactly?</p> <p>4 A. I don't have the exact date. I can</p> <p>5 check.</p> <p>6 Q. You're going to owe how much, 400</p> <p>7 some odd thousand dollars?</p> <p>8 A. 420, I'm paying ten percent</p> <p>9 interest a year which comes to 35,000 a year.</p> <p>10 So if you multiply by two, that's 70,000.</p> <p>11 Q. Have you made any repayments yet?</p> <p>12 A. No.</p> <p>13 Q. When you say you have to pay him in</p> <p>14 six months to a year, is that the entire</p> <p>15 repayment --</p> <p>16 A. He knows --</p> <p>17 Q. Let me finish the question. Is it</p> <p>18 the first of a number of repayments? I'm not</p> <p>19 following what you're going to be doing in six</p> <p>20 months to a year.</p> <p>21 A. I got the loan for litigation</p> <p>22 purposes, and he is flexible with me. He gave</p> <p>23 me a two-year period, but he can extend it for</p> <p>24 another year if it's necessary. I'm in</p> <p>25 discussions with him now, so there's no final</p> |
| <p style="text-align: right;">Page 15</p> <p>1 Ruben Elberg</p> <p>2 Q. You committed, is that what they</p> <p>3 charge or is that what you said you would pay?</p> <p>4 A. They generally charge, they wanted</p> <p>5 eight, and I committed to six, and I paid some</p> <p>6 of it, I didn't pay all of it yet.</p> <p>7 Q. Where did you get the money to pay</p> <p>8 that?</p> <p>9 A. I had borrowed money twice in the</p> <p>10 last two years because of the litigation, from</p> <p>11 personal loans and interest and basically paid</p> <p>12 legal expenses and other expenses that I've had</p> <p>13 to maintain myself going forward.</p> <p>14 Q. Who loaned you the money and how</p> <p>15 much?</p> <p>16 A. There was a friend whose name is</p> <p>17 Shalom Bahr, and I think his fund is called</p> <p>18 Kerem Menahem Fund, Kerem Menahem Trust, I</p> <p>19 think. I borrowed from him \$350,000, interest</p> <p>20 to be paid at the end of the two-year period,</p> <p>21 and that would be like 420 by the time I have to</p> <p>22 pay it back.</p> <p>23 Q. When is it due to be repaid?</p> <p>24 A. In about six months to a year.</p> <p>25 Q. From now?</p> | <p style="text-align: right;">Page 17</p> <p>1 Ruben Elberg</p> <p>2 date that I have right now.</p> <p>3 Q. Originally, did you sign a note?</p> <p>4 A. Yes, I did. My house is good as a</p> <p>5 guarantee.</p> <p>6 Q. Is there a due date on the note?</p> <p>7 A. Yes, there are two stages. One was</p> <p>8 250 and another hundred was given to me. The</p> <p>9 first loan was January, and the second loan was</p> <p>10 September of 2016, so it was two years per.</p> <p>11 Q. So the first note is due if there's</p> <p>12 no extension in January of 2018, and then the</p> <p>13 next note is due --</p> <p>14 A. In September.</p> <p>15 Q. -- September of 2018; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. You said you guaranteed with the</p> <p>19 house, the house you live in?</p> <p>20 A. I gave him my house as a guarantee</p> <p>21 to repay the loan because I have equity in the</p> <p>22 house, so I gave him that as a guarantee.</p> <p>23 Q. Did you give him a mortgage on the</p> <p>24 house?</p> <p>25 A. Yes, a second mortgage, I signed a</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 Ruben Elberg</p> <p>2 note.</p> <p>3 Q. You say a few thousand of that</p> <p>4 you've paid to the Westchester Yashiva?</p> <p>5 A. Yes.</p> <p>6 Q. You still owe them more money?</p> <p>7 A. Yes.</p> <p>8 Q. Shneur is in France you say?</p> <p>9 A. Yes.</p> <p>10 Q. Studying in Yashiva there?</p> <p>11 A. Yes.</p> <p>12 Q. Who is paying for that?</p> <p>13 A. That's also a similar situation as</p> <p>14 Moshe. I paid some of it, I owe substantial</p> <p>15 money toward Yashiva tuition. And he's back and</p> <p>16 he won't be going back because I don't have the</p> <p>17 means to continue the Yashiva there, I don't</p> <p>18 have the money to keep the payments up.</p> <p>19 Q. He's home now?</p> <p>20 A. He came back yesterday, so he will</p> <p>21 be staying for now.</p> <p>22 Q. How long was he in France for?</p> <p>23 A. Just one year.</p> <p>24 Q. How much did you pay for that?</p> <p>25 A. That would be in the seven or</p> | <p style="text-align: right;">Page 20</p> <p>1 Ruben Elberg</p> <p>2 Q. When you literally got the money,</p> <p>3 did you put it in a bank or was it in cash, how</p> <p>4 did you get it?</p> <p>5 A. I put it in a bank. I didn't get</p> <p>6 it in cash, of course not.</p> <p>7 Q. Was it a check?</p> <p>8 A. Check.</p> <p>9 Q. Where did you deposit the check?</p> <p>10 A. To my recollection, my account, my</p> <p>11 personal account.</p> <p>12 Q. Where is that?</p> <p>13 A. Capital One.</p> <p>14 Q. Any other account that you have,</p> <p>15 any other bank accounts that you have?</p> <p>16 A. I might have deposited it in a</p> <p>17 business account.</p> <p>18 Q. I'm sorry?</p> <p>19 A. In a business account.</p> <p>20 Q. You might have deposited that money</p> <p>21 in a business account?</p> <p>22 A. Or a portion of it. I can't be</p> <p>23 sure now exactly where I deposited it. Some of</p> <p>24 it I deposited in personal, some of it I</p> <p>25 deposited in business. I can get that</p> |
| <p style="text-align: right;">Page 19</p> <p>1 Ruben Elberg</p> <p>2 \$8,000 range plus travel expenses with the</p> <p>3 tickets back and forth. And I didn't pay it in</p> <p>4 full. I still owe money towards that as well.</p> <p>5 Q. You paid seven or eight or you owe</p> <p>6 seven or eight?</p> <p>7 A. The amount was, I believe, eight or</p> <p>8 nine if I remember correctly, and I paid maybe</p> <p>9 six towards it, five and a half.</p> <p>10 Q. Where did you get that money from?</p> <p>11 A. Part of the loan that I borrowed</p> <p>12 before.</p> <p>13 Q. The moneys that you got from the</p> <p>14 loans, you got the proceeds from them. What did</p> <p>15 you do with the proceeds when you first received</p> <p>16 each of those loans?</p> <p>17 A. I paid some of it in legal fees.</p> <p>18 Some of it I paid old debts that I had accrued</p> <p>19 before I had from someone else, I paid that off.</p> <p>20 And some of it I paid for ongoing expenses that</p> <p>21 I had.</p> <p>22 Q. That's not what I meant. Let me</p> <p>23 clarify. When you got the first loan, the first</p> <p>24 loan was how much?</p> <p>25 A. 250.</p> | <p style="text-align: right;">Page 21</p> <p>1 Ruben Elberg</p> <p>2 information for you if it's necessary.</p> <p>3 Q. Where was that business account?</p> <p>4 A. It was in Capital One.</p> <p>5 Q. Both accounts are in Capital One?</p> <p>6 A. Yes, and then I have another</p> <p>7 business account in Bank of America.</p> <p>8 Q. So we're talking three accounts</p> <p>9 now?</p> <p>10 A. Yes. It's a business account.</p> <p>11 Q. The account that you said, the</p> <p>12 personal account, is that in your name?</p> <p>13 A. Yes, I supplied the personal</p> <p>14 account information to you.</p> <p>15 Q. That's in the name of Ruben Elberg?</p> <p>16 A. Yes.</p> <p>17 Q. Anybody else a signatory on that?</p> <p>18 A. No.</p> <p>19 Q. Just you?</p> <p>20 A. Yes.</p> <p>21 Q. The business account at Capital</p> <p>22 One, whose name is that in?</p> <p>23 A. Business account, Capital One, it's</p> <p>24 in my name.</p> <p>25 Q. Ruben Elberg?</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 Ruben Elberg</p> <p>2 A. Three accounts are the Capital,</p> <p>3 those are Merrill, Spindle and Jerub, those are</p> <p>4 in Capital One.</p> <p>5 Q. J-E-R-U-B, Merrill and Spindle. All</p> <p>6 right, let's take this a little more slowly.</p> <p>7 You got 250, \$250,000 in a check?</p> <p>8 A. Yes.</p> <p>9 Q. When was this?</p> <p>10 A. January of 2016.</p> <p>11 Q. And you took that check and you</p> <p>12 deposited it where?</p> <p>13 A. Into a business account, business</p> <p>14 account.</p> <p>15 Q. Which business account?</p> <p>16 A. N. Minue, Inc.</p> <p>17 Q. N. Minue, Inc., N. M-I-N-U-E, Inc.</p> <p>18 Where was that account?</p> <p>19 A. It was, one was in Capital One and</p> <p>20 I had also in Bank of America.</p> <p>21 Q. Which of those two accounts did you</p> <p>22 deposit that \$250,000 check in?</p> <p>23 A. I don't remember. I believe it</p> <p>24 should have been -- I don't have the exact</p> <p>25 information. I would have to check back and</p> | <p style="text-align: right;">Page 24</p> <p>1 Ruben Elberg</p> <p>2 special place like a file cabinet, do you keep</p> <p>3 them all together in an organized way?</p> <p>4 A. I wouldn't say, it's not the most</p> <p>5 organized way.</p> <p>6 Q. You would be able to find them</p> <p>7 without much trouble if you needed to?</p> <p>8 A. I can always get a copy if I need</p> <p>9 to.</p> <p>10 Q. I know that, but if you have it</p> <p>11 somewhere in your home, you know where to go to</p> <p>12 look to find it, correct?</p> <p>13 A. Again, I don't have it in an</p> <p>14 organized way. I have to look for it. If it's</p> <p>15 in my home, I will give it to you. If it's not,</p> <p>16 I will locate it and give it to you. I will get</p> <p>17 a copy from the bank.</p> <p>18 Q. It's not a big deal to do?</p> <p>19 A. It's something that I would have to</p> <p>20 do.</p> <p>21 Q. But you would be able to do it</p> <p>22 easily, correct, you can get me those</p> <p>23 statements, correct?</p> <p>24 A. I will work on it.</p> <p>25 Q. That's not my question. My</p> |
| <p style="text-align: right;">Page 23</p> <p>1 Ruben Elberg</p> <p>2 give you that information.</p> <p>3 Q. Where would you check?</p> <p>4 A. The bank, which bank account I</p> <p>5 deposited it in and how much and when, I would</p> <p>6 have to check it.</p> <p>7 Q. When you said you would check in</p> <p>8 the bank, what does that mean?</p> <p>9 A. I have to check which deposits were</p> <p>10 made in which banks.</p> <p>11 Q. I know that. How would you do</p> <p>12 that, would you go to a document, would you ask</p> <p>13 somebody, how would you find out?</p> <p>14 A. I would go to the bank.</p> <p>15 Q. You would literally physically go</p> <p>16 to the bank and ask them?</p> <p>17 A. Or look at my statements and see</p> <p>18 where the deposits would be.</p> <p>19 Q. So you do have statements for your</p> <p>20 bank accounts, correct?</p> <p>21 A. Do I have statements from the bank</p> <p>22 accounts, yes, I do.</p> <p>23 Q. Where do you keep those?</p> <p>24 A. I have them in my home, I believe.</p> <p>25 Q. I mean, do you have them in a</p> | <p style="text-align: right;">Page 25</p> <p>1 Ruben Elberg</p> <p>2 question is, is it difficult for you to get</p> <p>3 these bank statements for me?</p> <p>4 A. Why would you say it's difficult?</p> <p>5 I don't understand the question.</p> <p>6 Q. I'm asking if you think it's a</p> <p>7 difficult task to get these bank statements.</p> <p>8 A. No, I don't think so.</p> <p>9 Q. So you would have to do that in</p> <p>10 order to tell me which of the accounts, which of</p> <p>11 the business accounts you deposited the \$250,000</p> <p>12 check into, correct?</p> <p>13 A. Right.</p> <p>14 Q. The loan that you took out, was it</p> <p>15 taken out in the name of some business or in</p> <p>16 your individual name?</p> <p>17 A. I gave a personal guarantee. He</p> <p>18 gave it to me on my personal name.</p> <p>19 Q. So the note you signed was you as</p> <p>20 an individual, not on behalf of N. Minue or any</p> <p>21 other entity, correct?</p> <p>22 A. I don't believe so, no.</p> <p>23 Q. Whatever account you put it into,</p> <p>24 how much of that \$250,000 is still available to</p> <p>25 you somehow?</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 Ruben Elberg</p> <p>2 A. I have \$4,000 in the account.</p> <p>3 Q. I'm not asking about the account.</p> <p>4 I'm asking about the sum of money. You had</p> <p>5 \$250,000, you deposited it into some account.</p> <p>6 Whatever happened to the money, whether it moved</p> <p>7 to other accounts or you used it, how much of</p> <p>8 that sum is left to you available today?</p> <p>9 A. \$4,000.</p> <p>10 Q. So you've paid 246,000 of it to</p> <p>11 various --</p> <p>12 A. Yes.</p> <p>13 Q. -- payees?</p> <p>14 A. Yes.</p> <p>15 Q. And you've told me that you used</p> <p>16 some to pay legal fees; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know how much of that</p> <p>19 246,000 went to legal fees?</p> <p>20 A. I have to get a record from my</p> <p>21 lawyer to see how much I paid which law firm and</p> <p>22 when.</p> <p>23 Q. Do you have any idea how much?</p> <p>24 A. I would say more than \$300,000.</p> <p>25 Remember, I told you I took an additional</p> | <p style="text-align: right;">Page 28</p> <p>1 Ruben Elberg</p> <p>2 A. Two of them are. One of them I</p> <p>3 would say partially still advises me.</p> <p>4 Q. So they're all still your lawyers?</p> <p>5 A. Yes.</p> <p>6 Q. Any other law firm besides those</p> <p>7 three?</p> <p>8 A. No.</p> <p>9 Q. I know you can't tell me exactly</p> <p>10 between the two loans, but where else did the</p> <p>11 money go besides you told me law firms, and you</p> <p>12 used it to pay for Shneur, sorry, I can't</p> <p>13 pronounce his name.</p> <p>14 A. Shneur.</p> <p>15 Q. Shneur, his expenses in France,</p> <p>16 Yashiva and so on?</p> <p>17 A. Yes.</p> <p>18 Q. Did you use some of that money to</p> <p>19 pay for some of the other Yashivas you've talked</p> <p>20 about?</p> <p>21 A. Just a minor portion, yes.</p> <p>22 Q. Anything else that money was used</p> <p>23 for?</p> <p>24 A. Well, my wife works, so we don't</p> <p>25 have enough income. So if there's anything to</p> |
| <p style="text-align: right;">Page 27</p> <p>1 Ruben Elberg</p> <p>2 \$100,000, so I would say more than \$300,000 has</p> <p>3 gone to legal fees.</p> <p>4 Q. I just want to know about that 250,</p> <p>5 where it went. I would assume most of it had to</p> <p>6 go to legal fees?</p> <p>7 A. Most of the money went to legal</p> <p>8 fees.</p> <p>9 Q. Which law firm did it go to?</p> <p>10 A. It went to Kaye Scholer, Levi</p> <p>11 Huebner & Associates.</p> <p>12 Q. What was it?</p> <p>13 A. Kaye Scholer, Levi Huebner &</p> <p>14 Associates, some to Abrams & Fensterman. Again,</p> <p>15 I'm telling you this is all including the</p> <p>16 additional funds I took.</p> <p>17 Q. Because you can't divide in your</p> <p>18 mind exactly how much you sent to each of one, I</p> <p>19 understand.</p> <p>20 A. Yes.</p> <p>21 Q. Anybody else?</p> <p>22 A. Those are the three legal firms</p> <p>23 that I associated with.</p> <p>24 Q. Are they all three still your</p> <p>25 lawyers?</p> | <p style="text-align: right;">Page 29</p> <p>1 Ruben Elberg</p> <p>2 offset the living expenses that we need, I used</p> <p>3 some of it towards that.</p> <p>4 Q. Did any of it go to Capital One to</p> <p>5 reduce the judgment that Capital One has against</p> <p>6 you?</p> <p>7 A. No, I made multiple efforts to meet</p> <p>8 with Capital One because I have over \$100,000</p> <p>9 sitting in the bank account. I wanted to offer</p> <p>10 to pay those funds in the three corporations,</p> <p>11 and Capital One refused to meet me.</p> <p>12 They actually not only refused to</p> <p>13 meet but they colluded with my sister in order</p> <p>14 to deny me my right to access my bank accounts</p> <p>15 and be able to function properly, to be able to</p> <p>16 pay my bills.</p> <p>17 Q. The second \$100,000 installment of</p> <p>18 the loan, of the second loan, I'm not sure if</p> <p>19 it's a second loan, did you get that in cash or</p> <p>20 a check?</p> <p>21 A. Check.</p> <p>22 Q. What did you do with that check?</p> <p>23 A. The same thing.</p> <p>24 Q. You deposited it?</p> <p>25 A. I deposited it in the bank.</p> |

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| <p style="text-align: right;">Page 30</p> <p>1 Ruben Elberg</p> <p>2 Q. Which bank account did you deposit</p> <p>3 it in?</p> <p>4 A. I would have to check, I don't</p> <p>5 remember exactly.</p> <p>6 Q. You would have to check the bank</p> <p>7 statements you have at home?</p> <p>8 A. Yes.</p> <p>9 Q. Again, that was used, as far as you</p> <p>10 know, for paying legal fees --</p> <p>11 A. Yes.</p> <p>12 Q. -- and some other expenses; is that</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. You just mentioned \$100,000 sitting</p> <p>16 in three accounts?</p> <p>17 A. Yes.</p> <p>18 Q. Or an account for three companies,</p> <p>19 I couldn't quite get what you said.</p> <p>20 A. Yes, Merrill, Spindle and Jerub has</p> <p>21 been accruing income from the medallions in the</p> <p>22 taxi corporations, and I made an attempt to meet</p> <p>23 with Capital One. Judge Catterson reached out</p> <p>24 to meet with them, to set up a meeting and try</p> <p>25 to work something out.</p> | <p style="text-align: right;">Page 32</p> <p>1 Ruben Elberg</p> <p>2 medallion companies, and I paid investments in</p> <p>3 other businesses. I have that money, the money</p> <p>4 that's owed us that was sold, and the money is</p> <p>5 available to be repaid but it's stuck in this</p> <p>6 unfortunate mess that we're in.</p> <p>7 Q. Now, you say you borrowed money</p> <p>8 from these entities. You're talking about the</p> <p>9 entities that own the medallions?</p> <p>10 A. Merrill, Spindle and Jerub.</p> <p>11 Q. So we don't have to say Merrill,</p> <p>12 Spindle and Jerub every time, can we call them</p> <p>13 the medallion companies?</p> <p>14 A. Yes.</p> <p>15 MR. McCARTHY: I want to object.</p> <p>16 Potentially there may be confusion among</p> <p>17 other medallion companies, but for now you</p> <p>18 can do it.</p> <p>19 A. I would say Spindle and Merrill are</p> <p>20 solely owned by me, so I would rather focus when</p> <p>21 I speak about my total ownership with that, and</p> <p>22 Jerub is owned 50/50 with my father. One of</p> <p>23 those cabs have to be associated with the other</p> <p>24 company that you just mentioned.</p> <p>25 Q. That's fine. Any time it becomes</p> |
| <p style="text-align: right;">Page 31</p> <p>1 Ruben Elberg</p> <p>2 Q. What's the name?</p> <p>3 A. James C-A-T-T-E-R-S-O-N.</p> <p>4 Q. The money that's sitting in those</p> <p>5 accounts, you're talking about that's income</p> <p>6 from medallions owned by those entities?</p> <p>7 A. Correct.</p> <p>8 Q. That's the money that you were</p> <p>9 going to, you were proposing if you were able to</p> <p>10 meet with Capital One to pay to Capital One?</p> <p>11 A. Pay and also negotiate some kind of</p> <p>12 a direction of resolution with these judgments</p> <p>13 because, you know, it's very difficult to</p> <p>14 function under a scenario where you have my</p> <p>15 sister saying she owns the assets of, not she,</p> <p>16 but the estate owns the assets of Jerub, Spindle</p> <p>17 and Merrill, but the liabilities are mine.</p> <p>18 And basically she's taking the</p> <p>19 position that those companies belong to the</p> <p>20 estate, and I have to pay the judgments on these</p> <p>21 accounts.</p> <p>22 Q. Because you guaranteed their debt,</p> <p>23 correct?</p> <p>24 A. Not only because I guaranteed it,</p> <p>25 but I actually borrowed money from these</p> | <p style="text-align: right;">Page 33</p> <p>1 Ruben Elberg</p> <p>2 important to distinguish, please do so. We</p> <p>3 don't have to use a definition to override what</p> <p>4 you think the facts are.</p> <p>5 So you said you borrowed money from</p> <p>6 these entities, these medallion entities. Which</p> <p>7 of them did you borrow money from?</p> <p>8 A. Spindle, Merrill and Jerub.</p> <p>9 Q. All three?</p> <p>10 A. All three, yes.</p> <p>11 Q. When did you do that?</p> <p>12 A. From 2003 through 2012 when we</p> <p>13 started diversifying into the real estate</p> <p>14 sector.</p> <p>15 Q. So from 2003 to 2012, you borrowed</p> <p>16 money from each of those entities?</p> <p>17 A. Yes.</p> <p>18 Q. How did you do that?</p> <p>19 A. We refinanced with Capital One, and</p> <p>20 we took some equity out and we invested it in</p> <p>21 real estate.</p> <p>22 Q. So you took equity out?</p> <p>23 A. Yes.</p> <p>24 Q. But you view that as a loan from</p> <p>25 the company to you or as a capital distribution?</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 Ruben Elberg</p> <p>2 A. No, it was a loan, it was loans.</p> <p>3 Q. How much did Merrill loan you?</p> <p>4 A. In total from 2003 to 2014, Merrill,</p> <p>5 Spindle and Jerub lent \$2,450,000 roughly.</p> <p>6 Q. It lent that to you?</p> <p>7 A. Lent, lent it to me, and my father</p> <p>8 was handling actually the finances. So we made</p> <p>9 those investments, we deposited them either in</p> <p>10 their own accounts directly, Mandel, Spindle or</p> <p>11 Jerub.</p> <p>12 I can tell you the way the money</p> <p>13 was used, or it was deposited directly into the</p> <p>14 Royal One Real Estate Account or Royal Real</p> <p>15 Estate Management account, or it was directly</p> <p>16 wired to Rosenthal & Rosenthal who was a lender</p> <p>17 on some of those properties.</p> <p>18 For example, a million dollars in</p> <p>19 2011, 2012 was directly wired to pay a loan down</p> <p>20 on these two entities that I just described,</p> <p>21 RORE and RREM. Let's just abbreviate the</p> <p>22 companies, Royal One Real Estate will be</p> <p>23 abbreviated to RORE and Royal Real Estate</p> <p>24 management will be abbreviated to RREM, R-R-E-M.</p> <p>25 Q. You said you borrowed the money.</p> | <p style="text-align: right;">Page 36</p> <p>1 Ruben Elberg</p> <p>2 Q. But as far as Merrill and Spindle</p> <p>3 go, you're the only owner?</p> <p>4 A. Correct.</p> <p>5 Q. So you took a loan from each of</p> <p>6 those entities?</p> <p>7 A. Correct.</p> <p>8 Q. So you have three loans?</p> <p>9 A. Correct.</p> <p>10 Q. Is there any loan documentation, a</p> <p>11 loan agreement or any other documents --</p> <p>12 A. No.</p> <p>13 MR. McCARTHY: Let him finish his</p> <p>14 question.</p> <p>15 A. I apologize.</p> <p>16 Q. That's all right. Otherwise, if we</p> <p>17 speak over each other, it's not going to come</p> <p>18 out in the transcript.</p> <p>19 A. Please finish.</p> <p>20 Q. Is there any document reflecting</p> <p>21 the loan between those entities and you and in</p> <p>22 one case those entities between you and your</p> <p>23 father?</p> <p>24 A. No.</p> <p>25 Q. Who made the decision to borrow</p> |
| <p style="text-align: right;">Page 35</p> <p>1 Ruben Elberg</p> <p>2 Is there a loan agreement between you and these</p> <p>3 entities?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have a copy of that?</p> <p>6 A. Yes, the Capital One, the last 2012</p> <p>7 loan agreement, we have it, sure, we can supply</p> <p>8 it.</p> <p>9 Q. No, no, the loan from Merrill,</p> <p>10 Spindle and Jerub to you of \$2,450,000?</p> <p>11 A. No.</p> <p>12 Q. You said you borrowed money from</p> <p>13 these entities.</p> <p>14 A. We borrowed it from Capital One.</p> <p>15 Q. The loans, there were loans made to</p> <p>16 each of these medallion owning entities by</p> <p>17 Capital One, correct?</p> <p>18 A. Correct.</p> <p>19 Q. You said, and tell me if this is</p> <p>20 not what you meant, that then you borrowed</p> <p>21 money, you took money out --</p> <p>22 A. We took money out.</p> <p>23 Q. Who is we?</p> <p>24 A. My father and me because Jerub is</p> <p>25 owned by Jacob and Ruben.</p> | <p style="text-align: right;">Page 37</p> <p>1 Ruben Elberg</p> <p>2 money from Merrill?</p> <p>3 A. I did.</p> <p>4 Q. Who made the decision to borrow the</p> <p>5 money from Spindle?</p> <p>6 A. I did.</p> <p>7 Q. And who made the decision to borrow</p> <p>8 the money from Jerub?</p> <p>9 A. Jacob and I.</p> <p>10 Q. So you owe each of those entities</p> <p>11 moneys to pay back those loans?</p> <p>12 A. Yes, sir.</p> <p>13 Q. When is that due?</p> <p>14 A. There was a problem that created</p> <p>15 the dispute between my sister and myself. The</p> <p>16 problem is very simple, in 2001 when we changed</p> <p>17 accountants, my father found a new accounting</p> <p>18 firm.</p> <p>19 He was running the taxi medallion</p> <p>20 business, and he was operating it, and I gave</p> <p>21 him power of attorney to do everything, he was</p> <p>22 signatory on the bank accounts.</p> <p>23 I was not involved day to day with</p> <p>24 those operations. I was handling the real</p> <p>25 estate end of the operations. So what happened</p> |

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| <p style="text-align: right;">Page 38</p> <p>1 Ruben Elberg</p> <p>2 was, when we changed from one accounting firm to</p> <p>3 another, the new accountant filed all the tax</p> <p>4 returns under Jacob Elberg 100 percent owner.</p> <p>5 When we were borrowing money, it is</p> <p>6 reflected in the tax return as if Jacob borrowed</p> <p>7 the money from Spindle, Merrill and Jerub as 100</p> <p>8 percent owner, but all the loan documents and</p> <p>9 everything else, I borrowed it. I signed for</p> <p>10 it, I personally guaranteed for it.</p> <p>11 Jacob also personally guaranteed</p> <p>12 the companies I owned because he was running it,</p> <p>13 and the money was being processed through JEB</p> <p>14 Management.</p> <p>15 And because he was in control of</p> <p>16 the moneys, Capital One made JEB Management as</p> <p>17 an additional guarantor and Jacob Elberg as an</p> <p>18 additional guarantor on all those loans.</p> <p>19 But I'm not a guarantor on any of</p> <p>20 Jacob Elberg's other medallion loans. He was a</p> <p>21 guarantor on mine.</p> <p>22 Q. That's not my question. My</p> <p>23 question is when is the money that was borrowed</p> <p>24 by you from Merrill and Spindle and borrowed by</p> <p>25 you and your father from Jerub, when is that due</p> | <p style="text-align: right;">Page 40</p> <p>1 Ruben Elberg</p> <p>2 A. I don't understand who would</p> <p>3 negotiate that. I don't understand what you're</p> <p>4 saying.</p> <p>5 Q. Did anybody take Merrill's side of</p> <p>6 that discussion and the decision from Merrill to</p> <p>7 loan you Ruben Elberg money?</p> <p>8 A. No.</p> <p>9 Q. That was just you, right?</p> <p>10 A. Yes.</p> <p>11 Q. You just made the decision all on</p> <p>12 your own?</p> <p>13 A. Yes.</p> <p>14 Q. You took money out and you decided</p> <p>15 there would be a loan?</p> <p>16 A. I borrowed money from my</p> <p>17 corporation, and my father borrowed from his</p> <p>18 corporation, and actually we did capital</p> <p>19 contributions into the RORE and RREM.</p> <p>20 And from there they were to be</p> <p>21 capital contributions to Royal CP and Royal HI</p> <p>22 entities.</p> <p>23 Q. But my question is, who decided</p> <p>24 that it would be, for example, in the form of a</p> <p>25 loan as opposed to a distribution of equity?</p> |
| <p style="text-align: right;">Page 39</p> <p>1 Ruben Elberg</p> <p>2 to be paid back to those entities?</p> <p>3 A. It was due to be paid back after a</p> <p>4 refinancing of the hotel project that we were</p> <p>5 going to stabilize or a sale of the hotel</p> <p>6 project that we were going to stabilize.</p> <p>7 Q. Is there anything in writing that</p> <p>8 says that's when it's due back?</p> <p>9 A. No.</p> <p>10 Q. Is there an interest rate?</p> <p>11 A. The accountant was imputing two</p> <p>12 percent interest in the tax returns.</p> <p>13 Q. How do you know that?</p> <p>14 A. I know that.</p> <p>15 Q. But how do you know that?</p> <p>16 A. The accountant told me.</p> <p>17 Q. Which accountant is that?</p> <p>18 A. Fred Roth.</p> <p>19 Q. Who negotiated the loan on behalf</p> <p>20 of Merrill?</p> <p>21 A. What do you mean by that? Please</p> <p>22 clarify.</p> <p>23 Q. Who took Merrill's interest into</p> <p>24 account and said I'm going to loan you money, to</p> <p>25 you Ruben?</p> | <p style="text-align: right;">Page 41</p> <p>1 Ruben Elberg</p> <p>2 A. My father and I, we discussed it</p> <p>3 and we said that we were going to take this as a</p> <p>4 loan and then repay it back when we could to the</p> <p>5 companies.</p> <p>6 Q. Why did you decide it would be a</p> <p>7 loan as opposed to an equity distribution?</p> <p>8 A. I don't remember the reason behind</p> <p>9 it, but it was to be paid back to those</p> <p>10 companies.</p> <p>11 Q. You said in a prior answer that</p> <p>12 Capital One colluded with your sister. What</p> <p>13 evidence do you have of the collusion?</p> <p>14 A. My sister had a tendency to record</p> <p>15 people, and she basically recorded Mark</p> <p>16 Gallagher who was Capital One Bank's lawyer</p> <p>17 basically. I have a transcript of it, I</p> <p>18 submitted it in the case, and it's --</p> <p>19 Q. Any evidence you had of what you</p> <p>20 call collusion you submitted to the court; is</p> <p>21 that right?</p> <p>22 A. I'm sorry?</p> <p>23 Q. Any evidence that you have of what</p> <p>24 you call collusion, did you submit that to the</p> <p>25 court in opposition to the summary judgment</p> |

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| <p style="text-align: right;">Page 42</p> <p>1 Ruben Elberg</p> <p>2 motion made by Capital One?</p> <p>3 A. Yes, I did.</p> <p>4 MR. McCARTHY: Sorry, can you just</p> <p>5 read back the question, and I want to make</p> <p>6 sure the answer is correct.</p> <p>7 (The record was read.)</p> <p>8 MR. McCARTHY: Thank you.</p> <p>9 Q. So there's no other facts or what</p> <p>10 you would think of as evidence of this collusion</p> <p>11 that you could point me to, other than what's</p> <p>12 already been submitted to the court?</p> <p>13 A. There is an appeal on this case</p> <p>14 that is going to be perfected by the 29th of</p> <p>15 this month. So that's going to be filed by the</p> <p>16 29th, and we'll see what happens.</p> <p>17 Q. That's not my question. My</p> <p>18 question is, do you have any other facts you can</p> <p>19 point me to other than something --</p> <p>20 A. I'm not going to get into the</p> <p>21 details of that litigation.</p> <p>22 Q. Let me finish the question. Do you</p> <p>23 have any other fact which you can point me to,</p> <p>24 other than what you've already submitted to the</p> <p>25 court, not a legal argument, any other fact of</p> | <p style="text-align: right;">Page 44</p> <p>1 Ruben Elberg</p> <p>2 him finish his question.</p> <p>3 THE WITNESS: I thought he was</p> <p>4 finished, I apologize.</p> <p>5 MR. McCARTHY: I'm sorry.</p> <p>6 MR. FORSTOT: Thanks.</p> <p>7 Q. The income that goes into that</p> <p>8 account is from running the medallions, right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Who pays the money into each of</p> <p>11 those accounts?</p> <p>12 A. Napersay Management is one, and if</p> <p>13 you give me a minute, I'll tell you the exact</p> <p>14 names, I apologize.</p> <p>15 THE WITNESS: Is that okay?</p> <p>16 MR. McCARTHY: He just wants to get</p> <p>17 the spelling.</p> <p>18 MR. FORSTOT: That's fine.</p> <p>19 A. It will take me a minute because I</p> <p>20 shut this off.</p> <p>21 Q. That's all right. All you're</p> <p>22 trying to do is get the spelling of Napersay?</p> <p>23 A. The two companies we get rental</p> <p>24 income from, that's what I'm searching.</p> <p>25 Q. You can do that at a break and add</p> |
| <p style="text-align: right;">Page 43</p> <p>1 Ruben Elberg</p> <p>2 what you call collusion?</p> <p>3 A. I choose not to go into that aspect</p> <p>4 because I'm not ready for it, for the discussion</p> <p>5 at this moment. My mind is not settled with</p> <p>6 those details right now.</p> <p>7 Q. Who is your lawyer on that case?</p> <p>8 A. I'm pro se right now.</p> <p>9 Q. Do you get statements of the</p> <p>10 Merrill, Spindle and Jerub accounts where this</p> <p>11 money has been building up?</p> <p>12 A. Yes.</p> <p>13 Q. I'm sorry, where are those</p> <p>14 accounts?</p> <p>15 A. Capital One.</p> <p>16 Q. So you're aware of how much is</p> <p>17 sitting in each one?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know roughly how much is</p> <p>20 sitting in there right now?</p> <p>21 A. I would say around 120,000 between</p> <p>22 the three accounts, if not more.</p> <p>23 Q. That is income paid by --</p> <p>24 A. Jerub, Spindle --</p> <p>25 MR. McCARTHY: You just have to let</p> | <p style="text-align: right;">Page 45</p> <p>1 Ruben Elberg</p> <p>2 that. There are management companies to whom</p> <p>3 Merrill, Spindle and Jerub lease the medallions;</p> <p>4 is that right?</p> <p>5 A. Right. Merrill and Spindle are</p> <p>6 leased with one organization, and Jerub is</p> <p>7 leased to Napersay Management.</p> <p>8 Q. Is there a set monthly amount that</p> <p>9 gets deposited from running the medallions?</p> <p>10 A. Yes.</p> <p>11 Q. How much is it?</p> <p>12 A. Right now it's 1,600.</p> <p>13 Q. Per medallion per month?</p> <p>14 A. Per medallion per month.</p> <p>15 Q. Is that the money that has created</p> <p>16 this hundred and some odd thousand dollars?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And is there any other income that</p> <p>19 those entities have besides those rental</p> <p>20 amounts?</p> <p>21 A. No, they don't.</p> <p>22 Q. Those leases, how long do they run</p> <p>23 for?</p> <p>24 A. They are two- to three-year lease</p> <p>25 agreements and, you know, they have an option in</p> |

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| <p style="text-align: right;">Page 46</p> <p>1 Ruben Elberg</p> <p>2 the lease where they can, if the market</p> <p>3 conditions are not proper, originally these</p> <p>4 leases, we were generating \$3,500 a month per</p> <p>5 medallion. And they started dropping, dropping</p> <p>6 to a point where it's reached 1,600.</p> <p>7 So they have a way where they can</p> <p>8 renegotiate with us. They will give us three</p> <p>9 months and they return to us the medallions, if</p> <p>10 we don't agree to the negotiated terms.</p> <p>11 Q. Who is managing those medallion</p> <p>12 entities today?</p> <p>13 A. I just told you, I can give you --</p> <p>14 Q. I don't mean the managing</p> <p>15 companies. Let's say there's a renegotiation or</p> <p>16 a discussion about the medallion lease rates</p> <p>17 between whatever company it is and any of the</p> <p>18 three medallion entities, who talks to these</p> <p>19 companies on behalf of the medallion entities?</p> <p>20 A. I was speaking to them until about</p> <p>21 a year ago, and a year ago, I think less than a</p> <p>22 year ago --</p> <p>23 THE WITNESS: Excuse me.</p> <p>24 (Witness and counsel confer.)</p> <p>25 A. Recently one of the management</p> | <p style="text-align: right;">Page 48</p> <p>1 Ruben Elberg</p> <p>2 people. So I asked my lawyer to be in contact</p> <p>3 with them to see how we can work something out</p> <p>4 without -- I can't have my sister setting the</p> <p>5 terms on my medallions with what income I'm</p> <p>6 going to get, because I have obligations to</p> <p>7 Capital One and I can't do that. She</p> <p>8 interjected again like everywhere else to try to</p> <p>9 undermine my ownership.</p> <p>10 Q. Is there a court order that says</p> <p>11 that she's got the right to do that as opposed</p> <p>12 to you?</p> <p>13 A. No, there is no such court order.</p> <p>14 THE WITNESS: Brian, can you</p> <p>15 explain the court order because I'm not</p> <p>16 legally savvy with what court orders there</p> <p>17 are.</p> <p>18 MR. McCARTHY: We're here for your</p> <p>19 deposition, so if you don't understand it,</p> <p>20 that's fine.</p> <p>21 Q. Other than receiving income and</p> <p>22 negotiating lease rates, is there anything else</p> <p>23 that needs to be done with regard to those</p> <p>24 entities as far as management of the companies</p> <p>25 go?</p> |
| <p style="text-align: right;">Page 47</p> <p>1 Ruben Elberg</p> <p>2 companies, my two companies told me that</p> <p>3 Pewzner's lawyer told her not to communicate</p> <p>4 with me any more under any negotiation terms,</p> <p>5 and to speak with Tamara in reference to those</p> <p>6 negotiations, because they had sent me a letter</p> <p>7 that they were returning those medallions to me</p> <p>8 because the market was not, you know,</p> <p>9 sustaining, they were paying me 2,500.</p> <p>10 And when they sent me a letter, I</p> <p>11 said okay, I'll take them back because I had</p> <p>12 someone else who was willing to give us in the</p> <p>13 2,000, \$2,200 range. This was like six months</p> <p>14 ago, maybe more.</p> <p>15 At that time, I was waiting for</p> <p>16 them to return the asset so I could give it to</p> <p>17 the new company which I had preliminary</p> <p>18 discussions with.</p> <p>19 And my sister's lawyer interjected</p> <p>20 and told them not to give the taxicabs back, and</p> <p>21 they renegotiated the terms to 1,600 without my</p> <p>22 permission.</p> <p>23 Now, I could start another</p> <p>24 litigation with these people, but I just don't</p> <p>25 have the means to litigate with all these</p> | <p style="text-align: right;">Page 49</p> <p>1 Ruben Elberg</p> <p>2 A. No, these are management companies.</p> <p>3 They do everything from A to Z.</p> <p>4 Q. Do they file tax returns for each</p> <p>5 of the entities?</p> <p>6 A. No, they do not.</p> <p>7 Q. Who does that?</p> <p>8 A. JEB Management, my father and I.</p> <p>9 Unfortunately, that's where the problem started.</p> <p>10 So in 2013, I found out that the tax returns</p> <p>11 were being written as my father as 100 percent</p> <p>12 owner, I challenged the accountant.</p> <p>13 I said why are you doing this, you</p> <p>14 knew Mark Gallagher was clearly saying these are</p> <p>15 the assets. He said I'm sorry, I didn't know.</p> <p>16 From now on going forward, we're going to</p> <p>17 correct it.</p> <p>18 I said I don't want to do it going</p> <p>19 forward. Now it's 2013, tax returns have to be</p> <p>20 filed. I want to file it the correct way.</p> <p>21 He said no, I can't do that, I've</p> <p>22 already done, it's done and I can't change it</p> <p>23 and the next year we're going to do it the way</p> <p>24 you want it.</p> <p>25 I said I don't want to file</p> |

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| <p style="text-align: right;">Page 50</p> <p>1 Ruben Elberg</p> <p>2 anything for 2013. I wrote him a letter from my</p> <p>3 lawyer not to file those returns as a mistake in</p> <p>4 the past.</p> <p>5 And my lawyer asked him, he had</p> <p>6 claimed that Jacob Elberg had given him</p> <p>7 authority for E-filing, and my lawyer asked him</p> <p>8 to give him the E-filing notices for Spindle,</p> <p>9 Merill and Jerub that Jacob owns 100 percent,</p> <p>10 and he could not deliver on his words, whatever</p> <p>11 he said that Jacob gave him that authority and</p> <p>12 direction.</p> <p>13 So I believe he never got that</p> <p>14 authority from my father. My father never</p> <p>15 claimed those assets to be his. He signed</p> <p>16 papers to the contrary of what my sister is</p> <p>17 claiming, and I just don't understand what I'm</p> <p>18 facing these challenges with. But I'm trying to</p> <p>19 work this through with the legal system. It's</p> <p>20 very costly and time consuming.</p> <p>21 Q. Joseph Elberg, Josef Elberg, he's</p> <p>22 in Los Angeles?</p> <p>23 A. Yes, he was sent by the Yashiva as</p> <p>24 an emissary. So that expense, there is no</p> <p>25 tuition there on my part, and even his travel</p> | <p style="text-align: right;">Page 52</p> <p>1 Ruben Elberg</p> <p>2 anything. His expenses were being paid by the</p> <p>3 Yashiva.</p> <p>4 Q. You say Mandel is married?</p> <p>5 A. Yes.</p> <p>6 Q. He's living elsewhere in Crown</p> <p>7 Heights?</p> <p>8 A. Yes.</p> <p>9 Q. Miriam lives at home with you?</p> <p>10 A. Yes.</p> <p>11 Q. She's a teacher?</p> <p>12 A. Yes.</p> <p>13 Q. She gets paid for that?</p> <p>14 A. Yes.</p> <p>15 Q. Does she use that money to support</p> <p>16 you and your children?</p> <p>17 A. Yes, she helps us.</p> <p>18 Q. Your other children?</p> <p>19 A. Yes, she helps us a little.</p> <p>20 Q. And Shterna?</p> <p>21 A. Shterna is married.</p> <p>22 Q. She lives elsewhere?</p> <p>23 A. She lives elsewhere.</p> <p>24 Q. Dina is married and lives</p> <p>25 elsewhere?</p> |
| <p style="text-align: right;">Page 51</p> <p>1 Ruben Elberg</p> <p>2 expenses is paid by the Yashiva because he is</p> <p>3 sitting in a hall, and he's basically helping</p> <p>4 younger students with their learning process.</p> <p>5 Q. Does he get paid for that?</p> <p>6 A. No.</p> <p>7 Q. But his expenses are covered. He's</p> <p>8 coming back you said from LA?</p> <p>9 A. Yes.</p> <p>10 Q. Is he going to continue to work in</p> <p>11 that role where he gets his expenses covered?</p> <p>12 A. Probably, probably. He's just</p> <p>13 finishing his rabbinical ordination.</p> <p>14 Q. What about David Elberg?</p> <p>15 A. David Elberg is finishing, he's</p> <p>16 also finished his rabbinical ordination, and</p> <p>17 he's going to be starting out on his life now.</p> <p>18 He's going to start.</p> <p>19 Q. He's been in the Yashiva for the</p> <p>20 last two to three years?</p> <p>21 A. Yes.</p> <p>22 Q. Who's been paying for that?</p> <p>23 A. He had the same circumstances like</p> <p>24 Josef where he was an emissary for the last two,</p> <p>25 three years in Yashivas, and he was not paying</p> | <p style="text-align: right;">Page 53</p> <p>1 Ruben Elberg</p> <p>2 A. Yes.</p> <p>3 Q. Tsipora is married and lives at</p> <p>4 home?</p> <p>5 A. Yes.</p> <p>6 Q. She's also a teacher?</p> <p>7 A. Yes.</p> <p>8 Q. She gets paid for doing that?</p> <p>9 A. Yes.</p> <p>10 Q. Does she use part of that income to</p> <p>11 support you and your other children?</p> <p>12 A. Yes.</p> <p>13 Q. You said your wife works?</p> <p>14 A. She's a teacher.</p> <p>15 Q. She gets paid for that?</p> <p>16 A. Yes.</p> <p>17 Q. How much?</p> <p>18 A. Less than 2,000 a month, around</p> <p>19 that range.</p> <p>20 Q. Where does she work?</p> <p>21 A. Beth Rifka schools in Crown</p> <p>22 Heights.</p> <p>23 Q. How long has she worked at that</p> <p>24 school?</p> <p>25 A. The past year.</p> |

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| <p style="text-align: right;">Page 54</p> <p>1 Ruben Elberg</p> <p>2 Q. So that's a new job?</p> <p>3 A. She did part-time work before and,</p> <p>4 you know, recently we needed the income so she</p> <p>5 went out and started working.</p> <p>6 Q. You said it's \$2,000 a month?</p> <p>7 A. Approximately.</p> <p>8 Q. What about you, do you work?</p> <p>9 A. No, I do not.</p> <p>10 Q. You don't have a job?</p> <p>11 A. No, I do not.</p> <p>12 Q. What are your monthly expenses for</p> <p>13 you and all your children you support?</p> <p>14 A. I have rent which is about, it's</p> <p>15 not rent, I apologize, it's a mortgage. I have</p> <p>16 a \$400,000 mortgage on the house, and that's</p> <p>17 about \$2,600 per month for mortgage. I have</p> <p>18 electric, gas, you know, basic household</p> <p>19 expenses, another five, \$600 a month,</p> <p>20 approximately.</p> <p>21 Q. And you need food?</p> <p>22 A. We have food stamps.</p> <p>23 Q. You qualify for food stamps?</p> <p>24 A. Yes.</p> <p>25 Q. Have you ever had a job?</p> | <p style="text-align: right;">Page 56</p> <p>1 Ruben Elberg</p> <p>2 Q. Go ahead, so you managed the</p> <p>3 restaurant, is that what you did?</p> <p>4 A. I was a partner in one of the</p> <p>5 restaurants.</p> <p>6 Q. Did you actually manage it?</p> <p>7 A. Yes, I worked there day to day.</p> <p>8 Q. Go ahead, any other jobs?</p> <p>9 A. In 2001 roughly we started</p> <p>10 diversifying into real estate, trying to find</p> <p>11 investment opportunities in real estate, and</p> <p>12 tried to build a portfolio in real estate.</p> <p>13 Q. You managed that?</p> <p>14 A. My father and myself.</p> <p>15 Q. You said you were managing, what</p> <p>16 were you managing?</p> <p>17 A. I was finding the assets, doing all</p> <p>18 the approvals that were needed, if it was a</p> <p>19 development site, raising capital, everything</p> <p>20 that needed to be done day-to-day to bring the</p> <p>21 project to fruition I was handling.</p> <p>22 Q. Any other jobs?</p> <p>23 A. No.</p> <p>24 Q. Have you attempted to go back to</p> <p>25 work as a gemologist?</p> |
| <p style="text-align: right;">Page 55</p> <p>1 Ruben Elberg</p> <p>2 A. Yes.</p> <p>3 Q. What jobs have you had?</p> <p>4 A. I worked in the beginning of my</p> <p>5 career, I was a gemologist and mineralogist. I</p> <p>6 worked in the diamond district as a gemologist.</p> <p>7 Q. Do you have some certification in</p> <p>8 that area?</p> <p>9 A. I'm a certified gemologist.</p> <p>10 Q. Okay, go ahead.</p> <p>11 A. Thereafter I worked five years with</p> <p>12 my father in the taxi industry.</p> <p>13 Q. In the taxi industry?</p> <p>14 A. Managing the day-to-day operations</p> <p>15 of the medallions. It wasn't always leased to</p> <p>16 third parties like it is now.</p> <p>17 Q. Any other jobs you've had?</p> <p>18 A. I had a restaurant at one time.</p> <p>19 Q. You owned a restaurant?</p> <p>20 A. Yes.</p> <p>21 Q. When was that?</p> <p>22 A. '93 to 2000.</p> <p>23 Q. You sold that business?</p> <p>24 A. We got out of the business. It was</p> <p>25 not profitable.</p> | <p style="text-align: right;">Page 57</p> <p>1 Ruben Elberg</p> <p>2 A. I've looked into it, and all the</p> <p>3 people in the diamond industry are telling me</p> <p>4 don't waste your time, this is not an industry</p> <p>5 that you want to go back into.</p> <p>6 Q. Have you looked for a job in any</p> <p>7 way recently in the last couple of years?</p> <p>8 A. I'm contemplating going into</p> <p>9 brokerage because I do know the real estate</p> <p>10 sector very well, and I'm working on getting a</p> <p>11 license there. I'll see if that succeeds.</p> <p>12 Q. Is there some kind of course? How</p> <p>13 do you get a license?</p> <p>14 A. There are two stages. One is</p> <p>15 either you're a salesman and then you become a</p> <p>16 broker, or if you have had or you still have</p> <p>17 real estate holdings or interests in real estate</p> <p>18 holdings, you can get a broker's license without</p> <p>19 having to go through the steps of being a</p> <p>20 salesman and then going to brokerage.</p> <p>21 Q. Where are you in that process?</p> <p>22 A. In the beginning stages.</p> <p>23 Q. Have you gotten any income from the</p> <p>24 real estate business other than when you were</p> <p>25 working with your father?</p> |

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| <p style="text-align: right;">Page 58</p> <p>1 Ruben Elberg</p> <p>2 A. No.</p> <p>3 MR. FORSTOT: We've gone about an</p> <p>4 hour or so. Do you want to take a</p> <p>5 five-minute break?</p> <p>6 MR. McCARTHY: That's fine.</p> <p>7 (A recess was taken.)</p> <p>8 (Subpoena duces tecum was hereby</p> <p>9 marked as Plaintiff's Exhibit 3 for</p> <p>10 identification, as of this date.)</p> <p>11 A. Weiling Management.</p> <p>12 Q. Weiling, how do you spell that?</p> <p>13 A. W-E-I-L-I-N-G, Management and the</p> <p>14 principals are Rod and Steve Newman. I'm having</p> <p>15 a problem with Napersay Management.</p> <p>16 I'll tell you what it is. My</p> <p>17 sister negotiated the deal terms with Napersay</p> <p>18 Management, and that was negotiated at \$2,500</p> <p>19 per month, and all the funds were supposed to go</p> <p>20 into the Jerub account at Capital One.</p> <p>21 Only a small portion, a third of</p> <p>22 those funds are going into the mutual account</p> <p>23 that my mother and I have, and the balance of</p> <p>24 the money she redirected into another account</p> <p>25 that I have no understanding or knowledge of</p> | <p style="text-align: right;">Page 60</p> <p>1 Ruben Elberg</p> <p>2 Q. You used the name Pewzner, and</p> <p>3 that's your sister?</p> <p>4 A. Tamara Pewzner, she's my</p> <p>5 co-executor.</p> <p>6 Q. And your sister?</p> <p>7 A. Yes.</p> <p>8 Q. I just want to clarify something.</p> <p>9 Earlier I had asked you how much of the \$250,000</p> <p>10 was left, still available to you, and you said</p> <p>11 about \$4,000.</p> <p>12 Now I just want to make sure I get</p> <p>13 the whole \$350,000 amount that you borrowed.</p> <p>14 How much of that whole amount is left and</p> <p>15 available to you somewhere?</p> <p>16 A. \$4,000.</p> <p>17 Q. So it's the same 4,000?</p> <p>18 A. Yes.</p> <p>19 Q. So out of \$350,000, 346,000 is out</p> <p>20 the door, being used to do something?</p> <p>21 A. Yes.</p> <p>22 Q. Being used to pay legal fees and</p> <p>23 other things you testified about?</p> <p>24 A. Yes, yes.</p> <p>25 Q. Your deposition was originally</p> |
| <p style="text-align: right;">Page 59</p> <p>1 Ruben Elberg</p> <p>2 where it is.</p> <p>3 That is moneys that belong to</p> <p>4 Jerub, and I have personal liabilities, as I see</p> <p>5 her here, being challenged by Capital One.</p> <p>6 I just don't have the means to</p> <p>7 litigate about every little thing with</p> <p>8 everybody, you know what I mean. But I want to</p> <p>9 be clear that there are funds that are being</p> <p>10 diverted by Pewzner from Jerub that I have no</p> <p>11 knowledge of where it's going.</p> <p>12 So the full 2,500 that the lease</p> <p>13 agreement was agreed to is not being deposited</p> <p>14 into the account, and I don't know where the</p> <p>15 money is going.</p> <p>16 Q. How do you know that it's being</p> <p>17 diverted?</p> <p>18 A. Because I looked at the account and</p> <p>19 I see the amount that's being deposited, and</p> <p>20 it's not the full amount that we're supposed to</p> <p>21 get.</p> <p>22 Q. Do you see money going out of the</p> <p>23 account?</p> <p>24 A. I just don't see the money coming</p> <p>25 in.</p> | <p style="text-align: right;">Page 61</p> <p>1 Ruben Elberg</p> <p>2 noticed for a subpoena of March 7th and you</p> <p>3 didn't show up. Why didn't you show up?</p> <p>4 A. I had counsel communicating --</p> <p>5 MR. McCARTHY: Sorry, I don't want</p> <p>6 him to disclose any communications he had</p> <p>7 between his counsel and himself. Other</p> <p>8 than conversations, please do not state any</p> <p>9 communications you had with counsel.</p> <p>10 THE WITNESS: All right.</p> <p>11 A. There was a demand that was sent to</p> <p>12 me, the response was supposed to be 2107, not</p> <p>13 2017. So the year was 2107, I don't know if it</p> <p>14 was on the deposition or one of the other</p> <p>15 documents that you requested some response on</p> <p>16 it. The date was 100 years later, so I just</p> <p>17 didn't think it was timely.</p> <p>18 You weren't asking me to come at a</p> <p>19 certain time and date. I don't remember which</p> <p>20 one of those documents was there, and I was not</p> <p>21 ready for whatever reason and I'm here now.</p> <p>22 Q. It's your testimony under oath,</p> <p>23 sir, that because the date was 2107, you didn't</p> <p>24 have to comply with the subpoena for 100 years?</p> <p>25 A. No, that's not my testimony.</p> |

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| <p style="text-align: right;">Page 62</p> <p>1 Ruben Elberg</p> <p>2 Q. So the date had nothing to do with</p> <p>3 it, did it --</p> <p>4 MR. McCARTHY: Objection.</p> <p>5 Q. -- why you didn't show up?</p> <p>6 MR. McCARTHY: Objection.</p> <p>7 Q. Is that right? You can answer.</p> <p>8 A. I have nothing else to add.</p> <p>9 Q. Let me ask you once again. Why</p> <p>10 didn't you show up on March 7th, what was the</p> <p>11 reason?</p> <p>12 A. I misunderstood the document. I</p> <p>13 really didn't understand that I had to come on a</p> <p>14 certain date for some reason.</p> <p>15 Q. We've already had two exhibits</p> <p>16 marked when you didn't show up, so we're going</p> <p>17 in sequence. This is Plaintiff's Exhibit 3,</p> <p>18 that's why it's 3 and not starting with 1.</p> <p>19 MR. FORSTOT: Do you have a copy</p> <p>20 for counsel?</p> <p>21 MR. McCARTHY: I'll take it.</p> <p>22 Q. Exhibit 3 is a subpoena you were</p> <p>23 served with in this matter, and it requested</p> <p>24 that you produce documents. Do you see that</p> <p>25 document in front of you? Take your time and</p> | <p style="text-align: right;">Page 64</p> <p>1 Ruben Elberg</p> <p>2 "Now, therefore, we command you to produce</p> <p>3 for examination on February 27, 2107, at</p> <p>4 12:00 p.m., at the offices of Troutman</p> <p>5 Sanders LLP, 875 Third Avenue, New York,</p> <p>6 New York 10022."</p> <p>7 I just want the record to be clear,</p> <p>8 and I also want the record to reflect at</p> <p>9 this time that I've not been provided with</p> <p>10 copies of Exhibits 1 or 2. I would ask if</p> <p>11 I could see them.</p> <p>12 Q. Anyway, you see where I'm talking</p> <p>13 about, the tax returns, do you see that?</p> <p>14 A. Please refer to the paragraph,</p> <p>15 clarify what you're asking.</p> <p>16 Q. Number 1 at the bottom of the first</p> <p>17 page. Tell me when you're there. Are you</p> <p>18 there?</p> <p>19 A. I'm reading. Could I have a</p> <p>20 moment, please.</p> <p>21 Q. Let me know when you're done. Have</p> <p>22 you read Number 1? You're on the second page.</p> <p>23 A. Yes, I have.</p> <p>24 Q. You understand it says tax returns,</p> <p>25 federal and state for the years 2012 through</p> |
| <p style="text-align: right;">Page 63</p> <p>1 Ruben Elberg</p> <p>2 look at it. Have you looked at it?</p> <p>3 A. Yes.</p> <p>4 Q. And the date's right on that one,</p> <p>5 right?</p> <p>6 A. No, that's the one 2107.</p> <p>7 Q. But you understood that that was</p> <p>8 just a typo, correct?</p> <p>9 A. No.</p> <p>10 Q. You really didn't?</p> <p>11 A. I understood what it said here.</p> <p>12 Q. I'm sorry?</p> <p>13 A. I understood what it said here.</p> <p>14 Q. Did you read that you were supposed</p> <p>15 to produce documents, did you understand that</p> <p>16 part?</p> <p>17 A. I read this document, yes, I did.</p> <p>18 Q. Now, let's go through this. First,</p> <p>19 tax returns, federal and state for the years</p> <p>20 2012 through 2015 and 2016 if available, do you</p> <p>21 see that?</p> <p>22 MR. McCARTHY: I just want to, I</p> <p>23 know it's part of the record, but I just</p> <p>24 want to ask, the paragraph you're reading</p> <p>25 from starts with a sentence that says:</p> | <p style="text-align: right;">Page 65</p> <p>1 Ruben Elberg</p> <p>2 2015 and 2016 if available, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Did you produce your tax returns?</p> <p>5 A. I believe I've supplied one tax</p> <p>6 return for 2012.</p> <p>7 Q. You produced it in response to this</p> <p>8 subpoena?</p> <p>9 A. I don't know if it was this</p> <p>10 subpoena or some other subpoena, but I supplied</p> <p>11 it.</p> <p>12 Q. Why else would you have supplied</p> <p>13 it?</p> <p>14 A. Again --</p> <p>15 Q. You supplied a tax return in</p> <p>16 response to this subpoena; is that right or not?</p> <p>17 A. I don't know if it was to this</p> <p>18 subpoena. But I had discussions, again, I don't</p> <p>19 want to get into my discussions with my legal</p> <p>20 counsel, and I gave whatever I had available.</p> <p>21 Q. You didn't think you had to wait</p> <p>22 100 years for that?</p> <p>23 A. (No verbal response.)</p> <p>24 Q. You didn't think you had to wait</p> <p>25 100 years for that, right?</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 Ruben Elberg</p> <p>2 A. I supplied what I had.</p> <p>3 Q. Which was a tax return for 2012?</p> <p>4 A. Yes.</p> <p>5 Q. What about 2013, where is that tax</p> <p>6 return?</p> <p>7 A. We spoke before that I didn't, I</p> <p>8 don't know if I mentioned it, that I did not</p> <p>9 file starting 2013 because there was a problem</p> <p>10 with my accountant not giving me the proper</p> <p>11 documentation to file the tax returns.</p> <p>12 So when I wanted to file 2013, I</p> <p>13 needed the K-1s for three corporations that I</p> <p>14 had interests in, and he said he already had</p> <p>15 filed it. I told him I wanted it corrected, and</p> <p>16 he would not cooperate.</p> <p>17 So at that point I didn't want to</p> <p>18 file tax returns saying when I found out that</p> <p>19 there was a problem with his filing, I didn't</p> <p>20 want to continue filing with a mistaken filing</p> <p>21 that my father, he claims my father guided him</p> <p>22 to file in the past, Fred Roth claims he guided</p> <p>23 him to file in the past. So 2013 on, I have not</p> <p>24 filed anything.</p> <p>25 Q. No federal tax returns?</p> | <p style="text-align: right;">Page 68</p> <p>1 Ruben Elberg</p> <p>2 A. My wife did not work, she started</p> <p>3 working the last year now.</p> <p>4 Q. In 2017?</p> <p>5 A. 2016.</p> <p>6 Q. How much income did she make in</p> <p>7 2016?</p> <p>8 A. She went to an accountant. She's</p> <p>9 dealing with that. I don't know exactly what's</p> <p>10 with her, if she's going to be filing alone or</p> <p>11 what's the situation with that.</p> <p>12 Q. Before that, you filed joint</p> <p>13 returns with your wife?</p> <p>14 A. Yes.</p> <p>15 Q. You got an extension from both the</p> <p>16 State of New York and the federal government to</p> <p>17 file your 2013 and 2014 taxes?</p> <p>18 A. I got a 2013 extension, but not the</p> <p>19 years after.</p> <p>20 Q. When was the 2013 extension until?</p> <p>21 A. I don't have the date, I don't</p> <p>22 remember.</p> <p>23 Q. Is it still extant?</p> <p>24 A. No, it's not.</p> <p>25 Q. You just didn't file a tax return?</p> |
| <p style="text-align: right;">Page 67</p> <p>1 Ruben Elberg</p> <p>2 A. Nothing.</p> <p>3 Q. No state tax returns?</p> <p>4 A. Nothing.</p> <p>5 Q. Because of that reason?</p> <p>6 A. I just wanted to clarify when I</p> <p>7 file, I want to file it properly. There is a</p> <p>8 dispute about these corporations and all the</p> <p>9 income. I don't know how to file, who is the</p> <p>10 income to if it's not going to be decided in my</p> <p>11 favor or not. I don't know exactly what's going</p> <p>12 on, and I did not file based on that.</p> <p>13 Q. Is there any other reason you</p> <p>14 haven't filed tax returns for 2013, '14, '15 or</p> <p>15 '16?</p> <p>16 A. '14, '15 and '16, there was no</p> <p>17 income, I had no income, so I had really nothing</p> <p>18 to file, I wasn't working. But '13 to '14, I</p> <p>19 had what to file, you know, and this was the</p> <p>20 correction that I needed done, and my only</p> <p>21 accountant would not cooperate to do whatever</p> <p>22 was right.</p> <p>23 Q. '14, '15 and '16 you had no income?</p> <p>24 A. I haven't worked.</p> <p>25 Q. Your wife didn't work in 2016?</p> | <p style="text-align: right;">Page 69</p> <p>1 Ruben Elberg</p> <p>2 A. I did not file it yet, no.</p> <p>3 Q. And 2014, did you get an extension</p> <p>4 for that?</p> <p>5 A. There was nothing to file in those</p> <p>6 years, I had no income to file.</p> <p>7 Q. Number 2 on Page 2, records of all</p> <p>8 banks accounts owned by you for the years 2012</p> <p>9 to date. So have you produced all bank accounts</p> <p>10 from 2012 to date?</p> <p>11 A. Yes, I gave whatever I had.</p> <p>12 Q. For all bank accounts?</p> <p>13 A. What do you mean all bank accounts?</p> <p>14 Q. All bank accounts opened by you.</p> <p>15 A. Personal, are you talking about</p> <p>16 personal?</p> <p>17 Q. Anything in your name.</p> <p>18 A. In my name personally, yes.</p> <p>19 Q. In any way, I don't care.</p> <p>20 A. Yes.</p> <p>21 Q. You have?</p> <p>22 A. Yes.</p> <p>23 Q. How many did you produce?</p> <p>24 A. Whatever I had, I produced.</p> <p>25 Q. Do you know?</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 Ruben Elberg</p> <p>2 A. Please clarify what you're asking.</p> <p>3 Q. How many statements did you produce</p> <p>4 for how many months for how many accounts?</p> <p>5 A. I don't remember the amounts of</p> <p>6 statements, but whatever I had, I produced.</p> <p>7 MR. FORSTOT: That's it?</p> <p>8 MR. BUCK: That's it.</p> <p>9 MR. FORSTOT: Mark that as the next</p> <p>10 exhibit.</p> <p>11 (Eight pages of Capital One bank</p> <p>12 statements were hereby marked as</p> <p>13 Plaintiff's Exhibit 4 for identification,</p> <p>14 as of this date.)</p> <p>15 Q. Take a look at Exhibit 4, and let</p> <p>16 me know when you're done.</p> <p>17 A. Yes.</p> <p>18 Q. Are those pages, those are the bank</p> <p>19 statements you produced, correct?</p> <p>20 A. It's some of the bank statements.</p> <p>21 I also submitted, if I'm not mistaken, Capital</p> <p>22 One accounts possibly for the taxi corporations.</p> <p>23 If I did not, I have them, and what I described</p> <p>24 before, there is over \$100,000 in three</p> <p>25 accounts, I can supply those accounts also.</p> | <p style="text-align: right;">Page 72</p> <p>1 Ruben Elberg</p> <p>2 A. Yes.</p> <p>3 Q. What did you do to find all the</p> <p>4 records at home or ask the bank for your account</p> <p>5 statements to comply with this subpoena?</p> <p>6 A. I gave you whatever I had handy and</p> <p>7 I supplied it.</p> <p>8 Q. One month from this year, that's</p> <p>9 what you had, those are the only account</p> <p>10 statements you have in your house, bank</p> <p>11 accounts?</p> <p>12 A. The ones I had recently.</p> <p>13 Q. That's not my question. Those are</p> <p>14 the only account statements you have in your</p> <p>15 house for your bank account, right?</p> <p>16 A. I have to check what else I have.</p> <p>17 Q. What did you do to check to make</p> <p>18 sure you didn't have any others?</p> <p>19 A. What do you mean what did I do to</p> <p>20 check?</p> <p>21 Q. Did you look throughout your house,</p> <p>22 did you ask somebody else to look, what did you</p> <p>23 do?</p> <p>24 A. The ones I had handy, I gave you.</p> <p>25 Q. When you say handy, what does that</p> |
| <p style="text-align: right;">Page 71</p> <p>1 Ruben Elberg</p> <p>2 Q. What period of time are the</p> <p>3 statements in your hand from?</p> <p>4 A. January 14th to February 13th.</p> <p>5 Q. Of what year?</p> <p>6 A. 2017.</p> <p>7 Q. For what account?</p> <p>8 A. Ruben Elberg.</p> <p>9 Q. It's one account?</p> <p>10 A. Yes.</p> <p>11 Q. Do you remember how you testified</p> <p>12 earlier that it's not a problem to get copies of</p> <p>13 these accounts, statements, do you remember</p> <p>14 that, do you remember that?</p> <p>15 A. Do I remember what?</p> <p>16 Q. Testifying that it's not a problem</p> <p>17 for you to get copies of account statements for</p> <p>18 your accounts.</p> <p>19 A. Okay.</p> <p>20 Q. You have them either at home,</p> <p>21 correct; is that correct?</p> <p>22 A. I don't know if I have all the</p> <p>23 records.</p> <p>24 Q. Or you could easily ask the bank</p> <p>25 for them, right?</p> | <p style="text-align: right;">Page 73</p> <p>1 Ruben Elberg</p> <p>2 mean?</p> <p>3 A. Without having to make a major</p> <p>4 search. Whatever I had available at that time,</p> <p>5 I gave you.</p> <p>6 Q. Did you make any search besides</p> <p>7 finding whatever you had handy?</p> <p>8 A. I wouldn't say I made an extensive</p> <p>9 search, no.</p> <p>10 Q. Did you ask the bank for any copies</p> <p>11 of statements from 2012 through today?</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. I didn't understand that you wanted</p> <p>15 all the bank accounts from 2012 to now.</p> <p>16 Q. Look at Page 1, sorry, Page 2,</p> <p>17 Number 2, records of all bank accounts owned by</p> <p>18 for the years 2012 to date, do you see that? Is</p> <p>19 that confusing to you?</p> <p>20 A. No, it's not.</p> <p>21 Q. You mentioned a Bank of America</p> <p>22 account, where are those statements?</p> <p>23 A. I should have some at home.</p> <p>24 Q. Why didn't you produce those?</p> <p>25 A. Because it's a business account.</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 Ruben Elberg</p> <p>2 Q. Is that in your name?</p> <p>3 A. It's a business name.</p> <p>4 Q. Any other accounts besides the</p> <p>5 account you produced one month's statement for</p> <p>6 and the Bank of America account that you have</p> <p>7 any control over?</p> <p>8 A. No, I don't have any other moneys</p> <p>9 elsewhere in any other bank.</p> <p>10 MR. McCARTHY: Can I just make one</p> <p>11 clarification and I'll just say, Exhibit 4</p> <p>12 speaks for itself, and the number of months</p> <p>13 that are covered within the bank account</p> <p>14 statements.</p> <p>15 I think the testimony for the</p> <p>16 questioning has been one month, but I</p> <p>17 believe there are multiple months.</p> <p>18 MR. FORSTOT: How many months are</p> <p>19 there?</p> <p>20 MR. McCARTHY: January 14, 2017 to</p> <p>21 February 13, 2017, two pages. February 14,</p> <p>22 2017 to March 13, 2017, two pages. October</p> <p>23 15, 2015 to November 13, 2015, four pages,</p> <p>24 and these are all Capital One bank account</p> <p>25 statements.</p> | <p style="text-align: right;">Page 76</p> <p>1 Ruben Elberg</p> <p>2 A. So other than my home, there's</p> <p>3 business interests that I have that I discussed</p> <p>4 with you before.</p> <p>5 Q. Any other properties?</p> <p>6 A. No.</p> <p>7 Q. You never had an interest in the</p> <p>8 Crescent Street in Queens property, is that what</p> <p>9 you own through those?</p> <p>10 A. Yes.</p> <p>11 Q. Have you had a car since 2012?</p> <p>12 A. Yes.</p> <p>13 Q. Do you still have a car?</p> <p>14 A. Yes.</p> <p>15 Q. Did you produce ownership documents</p> <p>16 for owning that car?</p> <p>17 A. I believe so. I notified -- I</p> <p>18 could be mistaken, a 2004 Honda Odyssey.</p> <p>19 Q. You own that, do you pay any loans</p> <p>20 on that?</p> <p>21 A. No, no loans.</p> <p>22 Q. How much is the mortgage, the two</p> <p>23 mortgages on your house?</p> <p>24 A. There is one mortgage that is being</p> <p>25 paid which is \$2,600, and the other mortgage,</p> |
| <p style="text-align: right;">Page 75</p> <p>1 Ruben Elberg</p> <p>2 MR. FORSTOT: Thank you.</p> <p>3 Q. Have you owned any securities since</p> <p>4 2012?</p> <p>5 A. No.</p> <p>6 Q. Any investments in mutual funds,</p> <p>7 stocks, bonds, anything?</p> <p>8 A. No.</p> <p>9 Q. Number 4 on the subpoena, you see</p> <p>10 that second page there, Number 4, records</p> <p>11 reflecting the ownership and/or transfer by you</p> <p>12 of any interest in real property, do you see</p> <p>13 that?</p> <p>14 A. Yes.</p> <p>15 Q. You own your house, correct?</p> <p>16 A. Yes.</p> <p>17 Q. You say you own it with your wife;</p> <p>18 is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Since 2012, have you owned any</p> <p>21 other real estate besides that property?</p> <p>22 A. I have partnership interests in</p> <p>23 RORE and RREM, and I have partnership interests</p> <p>24 in Royal CP and Royal HI.</p> <p>25 Q. Got it.</p> | <p style="text-align: right;">Page 77</p> <p>1 Ruben Elberg</p> <p>2 the interest is due when the loan is due.</p> <p>3 Q. Let me clarify. What I meant is</p> <p>4 how much is the entire amount of each mortgage.</p> <p>5 A. There's \$400,000 for, approximately</p> <p>6 \$400,000 on the first mortgage, and there's</p> <p>7 another 420,000 roughly by the time it's due on</p> <p>8 the second mortgage.</p> <p>9 Q. The second mortgage you told me</p> <p>10 about, that's from the loans you got in 2016,</p> <p>11 correct; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. The \$400,000 mortgage --</p> <p>14 A. It's 350 plus the interest that is</p> <p>15 being accrued that's going to be due upon --</p> <p>16 Q. That's not my question. The first</p> <p>17 mortgage, the first lien.</p> <p>18 A. Approximately 400, 390 maybe,</p> <p>19 something in that range, 390 to \$400,000, I</p> <p>20 don't remember exactly.</p> <p>21 Q. Who holds that mortgage presently?</p> <p>22 A. Nation Star Mortgage is servicing</p> <p>23 it. It's probably Wells Fargo, if I'm not</p> <p>24 mistaken, but I could be wrong.</p> <p>25 Q. Are you in default on that?</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 Ruben Elberg</p> <p>2 A. No.</p> <p>3 Q. What's the source of payment of the</p> <p>4 2,600 you said per month, where do you get the</p> <p>5 money to pay that?</p> <p>6 A. My wife works, my daughters help me</p> <p>7 a little bit, my, one of my other daughters,</p> <p>8 Shterna had lent me over \$30,000, a substantial</p> <p>9 amount of money over a period of time to help me</p> <p>10 pay my mortgage and, you know, some money that I</p> <p>11 borrowed, if I'm short, completed whatever the</p> <p>12 balance is.</p> <p>13 But I didn't want to default on my</p> <p>14 home. I just don't want my credit to go bad</p> <p>15 because I've paid Capital One, I've been with</p> <p>16 Capital One for years.</p> <p>17 I paid Capital One all along when</p> <p>18 my father was alive, and I never defaulted on</p> <p>19 anything, and I never had any bankruptcies or</p> <p>20 anything in my life.</p> <p>21 The only thing, when my father</p> <p>22 passed away and my sister started causing all</p> <p>23 this trouble, and it's at a point that it's</p> <p>24 unbearable. So this is what I'm facing right</p> <p>25 now unfortunately.</p> | <p style="text-align: right;">Page 80</p> <p>1 Ruben Elberg</p> <p>2 Q. But she transferred title to you?</p> <p>3 A. What do you mean she transferred</p> <p>4 title?</p> <p>5 Q. You owned the house after that.</p> <p>6 A. No, she did not give me the house.</p> <p>7 She wanted me to refinance, to refinance to have</p> <p>8 current payments on the house.</p> <p>9 Q. You are the hundred percent owner</p> <p>10 of the house from 2003 to 2016?</p> <p>11 A. That was not the intent, that was</p> <p>12 not her intent. She did not give me the house</p> <p>13 as a gift, no.</p> <p>14 Q. So when you look at the real estate</p> <p>15 records, who is the owner from that period of</p> <p>16 time?</p> <p>17 A. It was under my name because the</p> <p>18 mortgage was under my name, but I'm telling you</p> <p>19 that she never gave me the house as a gift, no.</p> <p>20 Q. And you only put her name on the</p> <p>21 title after you had already defaulted to Capital</p> <p>22 One, correct?</p> <p>23 A. I don't think so. I corrected the</p> <p>24 deed. I don't think so, but I can check the</p> <p>25 record. That was a deed correction clearly.</p> |
| <p style="text-align: right;">Page 79</p> <p>1 Ruben Elberg</p> <p>2 Q. You used to own the address, I'm</p> <p>3 sorry, the property at 1523 President Street in</p> <p>4 your own name, correct?</p> <p>5 A. No, it was initially in my wife's</p> <p>6 name alone when we purchased it. It was in 1999</p> <p>7 or 2000, we purchased it and it was in my wife's</p> <p>8 name alone, it was Yocheved Michaelashvilli, it</p> <p>9 was under her name alone.</p> <p>10 What happened in 2003, there was</p> <p>11 some financial difficulties and we had delays in</p> <p>12 payments on the mortgage, so my wife could not</p> <p>13 renew the mortgage. So she asked me to put it</p> <p>14 on my name and put her on the title as well when</p> <p>15 I get the refinancing done because I had good</p> <p>16 credit, so I did that.</p> <p>17 But I never really corrected the</p> <p>18 deed to add her to the name, and then I added</p> <p>19 her name because it originally was hers and mine</p> <p>20 together.</p> <p>21 Q. You're saying she owned the house?</p> <p>22 A. Totally, her father gave her the</p> <p>23 money to buy the house.</p> <p>24 Q. And she gave it to you in 2003?</p> <p>25 A. 2003 I refinanced it, yes.</p> | <p style="text-align: right;">Page 81</p> <p>1 Ruben Elberg</p> <p>2 Q. When did you do that?</p> <p>3 A. I don't remember the date. I have</p> <p>4 to check.</p> <p>5 Q. In fact, it was in September of</p> <p>6 2016, wasn't it?</p> <p>7 A. Again, I can't tell you the date.</p> <p>8 If you have the date, then you know for sure. I</p> <p>9 can't tell you, I would have to check.</p> <p>10 Q. Do you know how much the house is</p> <p>11 appraised for, how much you could sell it for?</p> <p>12 A. No.</p> <p>13 Q. Do you think you have equity over</p> <p>14 and above the two mortgages in the house?</p> <p>15 A. I don't know. I would have to</p> <p>16 check.</p> <p>17 Q. Sorry, when were the financial</p> <p>18 troubles that you said your wife had or there</p> <p>19 were financial troubles, I forget how you put</p> <p>20 it, that caused her to transfer the title to</p> <p>21 you?</p> <p>22 A. It was 2003, 2004, I don't remember</p> <p>23 exactly.</p> <p>24 Q. When did the financial troubles</p> <p>25 end, if they did, that allowed you to put her</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 Ruben Elberg</p> <p>2 name back on?</p> <p>3 A. I don't understand the question,</p> <p>4 why are you insinuating I had financial</p> <p>5 troubles?</p> <p>6 Q. Why did you transfer -- maybe I</p> <p>7 misunderstood your testimony. Why did she</p> <p>8 transfer the title from her name to your name,</p> <p>9 why did that happen?</p> <p>10 A. She had late payments on the</p> <p>11 mortgage, and basically we wanted to refinance</p> <p>12 the house because I don't know if the payment</p> <p>13 was coming due or I don't know exactly. I don't</p> <p>14 remember the reason why.</p> <p>15 And when she tried to get the</p> <p>16 refinancing, she did not have the proper income</p> <p>17 or information, so she asked me to put it on my</p> <p>18 name and put her on and refinance because I had</p> <p>19 better credit.</p> <p>20 Q. When you say add her on, what does</p> <p>21 that mean?</p> <p>22 A. To put her together with me.</p> <p>23 Q. On what?</p> <p>24 A. On the deed.</p> <p>25 Q. But you didn't do that?</p> | <p style="text-align: right;">Page 84</p> <p>1 Ruben Elberg</p> <p>2 Q. And on Page 3 of this document, you</p> <p>3 list the President Street address, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you list it as 100 percent</p> <p>6 owned by you, right?</p> <p>7 A. That's an error.</p> <p>8 Q. But you list it as 100 percent</p> <p>9 owned by you, correct?</p> <p>10 A. I didn't fill this out.</p> <p>11 Q. You signed this document, right?</p> <p>12 A. Yes.</p> <p>13 Q. You wouldn't have signed a document</p> <p>14 you thought was incorrect, would you?</p> <p>15 A. I didn't notice this. This is an</p> <p>16 error.</p> <p>17 Q. The purpose of that financial</p> <p>18 statement was what?</p> <p>19 A. We were trying to get financing for</p> <p>20 Royal HI Hotel Holdings LP.</p> <p>21 Q. Who is we?</p> <p>22 A. My father, Jacob Elberg and I.</p> <p>23 Q. So looking at the same page on that</p> <p>24 personal financial statement, you have the value</p> <p>25 of your house as 900,000, right?</p> |
| <p style="text-align: right;">Page 83</p> <p>1 Ruben Elberg</p> <p>2 A. I did not do that, I failed, yes.</p> <p>3 Q. For quite awhile, years?</p> <p>4 A. Whatever time, but I corrected it.</p> <p>5 In my mind, I corrected it. When the time came,</p> <p>6 I corrected it.</p> <p>7 Q. You didn't think about it?</p> <p>8 A. There was no need for it. I don't</p> <p>9 remember what was the reason why, but I failed</p> <p>10 to do whatever she had asked me, and I put her</p> <p>11 back on.</p> <p>12 MR. FORSTOT: Mark that.</p> <p>13 (Alma Bank Personal Financial</p> <p>14 Statement was hereby marked as Plaintiff's</p> <p>15 Exhibit 5 for identification, as of this</p> <p>16 date.)</p> <p>17 Q. Here's Exhibit 5. Why don't you</p> <p>18 look at that and let me know when you're done.</p> <p>19 A. Yes.</p> <p>20 Q. This is a personal financial</p> <p>21 statement that you gave to Alma Bank in 2012,</p> <p>22 correct; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. You signed it, right?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 85</p> <p>1 Ruben Elberg</p> <p>2 A. Yes.</p> <p>3 Q. Again, it says 100 percent owned by</p> <p>4 you, correct, that's what it does say, right?</p> <p>5 A. It's an error. I didn't fill this</p> <p>6 out. I signed it hoping that whatever the</p> <p>7 office manager filled out was correct, but it</p> <p>8 seems that she made an error. She actually</p> <p>9 never asked me that question.</p> <p>10 (Capital One Bank Personal</p> <p>11 Financial Statement was hereby marked as</p> <p>12 Plaintiff's Exhibit 6 for identification,</p> <p>13 as of this date.)</p> <p>14 Q. Here's Exhibit 6. Take a look at</p> <p>15 that.</p> <p>16 A. Yes.</p> <p>17 Q. This is also a personal financial</p> <p>18 statement from you, correct?</p> <p>19 A. Yes.</p> <p>20 Q. That's your handwriting?</p> <p>21 A. No, Mark Gallagher's handwriting,</p> <p>22 Capital One's handwriting.</p> <p>23 Q. You signed it?</p> <p>24 A. Yes.</p> <p>25 Q. Mark Gallagher's handwriting. Who</p> |

22 (Pages 82 - 85)

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| <p style="text-align: right;">Page 86</p> <p>1 Ruben Elberg</p> <p>2 is Mark Gallagher again?</p> <p>3 A. Capital One Bank's lawyer.</p> <p>4 Q. Why would he fill this out with all</p> <p>5 this information, how did he get that</p> <p>6 information?</p> <p>7 A. I don't remember if Brenda gave it</p> <p>8 to him, our office manager or I did. The same</p> <p>9 person that filled this out probably gave him</p> <p>10 this information.</p> <p>11 Q. This is 2013, correct?</p> <p>12 A. Yes.</p> <p>13 Q. The year after the last one we just</p> <p>14 looked at, right?</p> <p>15 A. Yes.</p> <p>16 Q. You signed it?</p> <p>17 A. Yes.</p> <p>18 Q. And on here it's got the \$900,000</p> <p>19 real estate value, right?</p> <p>20 A. Yes.</p> <p>21 Q. That's your house?</p> <p>22 A. Yes.</p> <p>23 Q. That's not half your house, that's</p> <p>24 the entire house, right?</p> <p>25 A. Again, it was in my name so I</p> | <p style="text-align: right;">Page 88</p> <p>1 Ruben Elberg</p> <p>2 A. I remember when someone asks me</p> <p>3 about my home ownership, yes, she did not ask</p> <p>4 me. I don't remember her asking me, honestly.</p> <p>5 (Wilshire State Bank Personal</p> <p>6 Financial Statement was hereby marked as</p> <p>7 Plaintiff's Exhibit 7 for identification,</p> <p>8 as of this date.)</p> <p>9 (Capital One Bank Personal</p> <p>10 Financial Statement was hereby marked as</p> <p>11 Plaintiff's Exhibit 8 for identification,</p> <p>12 as of this date.)</p> <p>13 Q. Just look at 7 and 8 also, they are</p> <p>14 both financial statements. Let me know when</p> <p>15 you're finished.</p> <p>16 A. Yes.</p> <p>17 Q. Each one of those you signed,</p> <p>18 correct; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And they also list your real</p> <p>21 property value at 900,000, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Those are references to your house,</p> <p>24 correct?</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">Page 87</p> <p>1 Ruben Elberg</p> <p>2 listed it as a home that I own, but it wasn't</p> <p>3 all mine. And I don't know that I had to add my</p> <p>4 wife to this personal financial statement to</p> <p>5 show her interest in the house. I was not aware</p> <p>6 of that information.</p> <p>7 Q. In fact, you filled out a number of</p> <p>8 personal financial statements where you list the</p> <p>9 value of your house as \$900,000, and you never</p> <p>10 once mention anything about your wife's</p> <p>11 interest, do you?</p> <p>12 A. I didn't think that I had to, you</p> <p>13 know, outline that information here. What</p> <p>14 Brenda wrote is definitely a mistake. I did not</p> <p>15 tell her to put in 100 percent owned by me, and</p> <p>16 here --</p> <p>17 Q. Why would she have done that then?</p> <p>18 A. I don't know.</p> <p>19 Q. She guessed?</p> <p>20 A. She guessed, I guess.</p> <p>21 Q. She didn't ask if you and your wife</p> <p>22 owned it?</p> <p>23 A. She did not ask me, no.</p> <p>24 Q. How do you know, do you recall the</p> <p>25 conversations from 2012?</p> | <p style="text-align: right;">Page 89</p> <p>1 Ruben Elberg</p> <p>2 Q. There's nothing in there that says</p> <p>3 anything about your wife's interest in the</p> <p>4 house, right?</p> <p>5 A. No, but it was solely owned by her.</p> <p>6 Q. Now it's solely owned by her?</p> <p>7 A. It was solely owned by her in the</p> <p>8 beginning.</p> <p>9 Q. But she transferred it to you,</p> <p>10 right?</p> <p>11 A. She transferred, as I explained, it</p> <p>12 was done for refinancing.</p> <p>13 Q. It may have been for a purpose, but</p> <p>14 she transferred the title to you, is that right</p> <p>15 or not? You don't know, do you?</p> <p>16 A. That was not her intent, to give</p> <p>17 the house to me, if that's what you're</p> <p>18 insinuating.</p> <p>19 Q. I'm not asking her intent. Did she</p> <p>20 transfer the title of the house to you?</p> <p>21 A. Not really, no. She allowed me to</p> <p>22 refinance the house, but she didn't mean to give</p> <p>23 me the house as a gift, no.</p> <p>24 Q. You're under oath. Is it your</p> <p>25 testimony that the title, the name on the deed</p> |

23 (Pages 86 - 89)

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| <p style="text-align: right;">Page 90</p> <p>1 Ruben Elberg</p> <p>2 for your house was never solely in your name?</p> <p>3 A. No, that's not my testimony.</p> <p>4 Q. What is your testimony, was it ever</p> <p>5 solely in your name?</p> <p>6 A. Yes, there was a period of time it</p> <p>7 was solely in my name.</p> <p>8 Q. And before that, it was solely in</p> <p>9 your wife's name, is that what you're saying?</p> <p>10 A. Yes.</p> <p>11 Q. So she transferred on the deed at</p> <p>12 least, whatever her intent, I'm not asking you</p> <p>13 about that, she transferred it solely to your</p> <p>14 name, correct?</p> <p>15 A. That's what your understanding is,</p> <p>16 yes.</p> <p>17 Q. How did your name get on the deed</p> <p>18 all by itself if not from her?</p> <p>19 A. I did not buy the house from her.</p> <p>20 I did not pay her to give, put the house in my</p> <p>21 name. I did not pay her a penny, you can prove</p> <p>22 that there's no transaction of funds.</p> <p>23 Q. She transferred it to you during</p> <p>24 times of financial problems that she was having;</p> <p>25 is that right?</p> | <p style="text-align: right;">Page 92</p> <p>1 Ruben Elberg</p> <p>2 one that says you're the hundred percent owner;</p> <p>3 is that correct?</p> <p>4 A. That was in error. I did not type</p> <p>5 that in.</p> <p>6 Q. You also signed other financial</p> <p>7 statements that we've seen that are exhibits</p> <p>8 here that has the value of the house at \$900,000</p> <p>9 listed, right, that you gave to banks to show</p> <p>10 your assets, correct?</p> <p>11 A. Yes, those are financial</p> <p>12 statements, yes.</p> <p>13 Q. And you didn't say anything about</p> <p>14 that you owned it jointly with your wife,</p> <p>15 correct?</p> <p>16 A. I didn't think that was part of the</p> <p>17 discussion.</p> <p>18 Q. Why is your name on the deed if</p> <p>19 it's her house and she owned it and you didn't</p> <p>20 pay for it, why is your name still on the deed</p> <p>21 at all?</p> <p>22 A. Why is my name on the deed?</p> <p>23 Q. Why didn't you transfer it back to</p> <p>24 her?</p> <p>25 A. We own it jointly.</p> |
| <p style="text-align: right;">Page 91</p> <p>1 Ruben Elberg</p> <p>2 A. She did not make payments. She</p> <p>3 could not refinance, so she allowed me to</p> <p>4 refinance the house, and I was supposed to put</p> <p>5 her back on the house, I did not.</p> <p>6 Q. During financial problems with your</p> <p>7 wife, she transferred the house solely to your</p> <p>8 name, correct?</p> <p>9 MR. McCARTHY: I'm going to object.</p> <p>10 Q. Is that correct or not?</p> <p>11 MR. McCARTHY: It's a</p> <p>12 mischaracterization of his testimony.</p> <p>13 A. I said what I have to say. I don't</p> <p>14 have anything to add about what transpired, and</p> <p>15 I'm being clear as to what happened. You're</p> <p>16 trying to get to something that I don't</p> <p>17 understand what you're trying to get to.</p> <p>18 Q. The facts are that she transferred</p> <p>19 the title on the deed to your name and then --</p> <p>20 A. I can't explain.</p> <p>21 Q. And then in 2016, you put her name</p> <p>22 back on it; is that correct?</p> <p>23 A. I did a correction.</p> <p>24 Q. And in the meantime, you signed</p> <p>25 financial statements that referred to, at least</p> | <p style="text-align: right;">Page 93</p> <p>1 Ruben Elberg</p> <p>2 Q. So she did transfer it with the</p> <p>3 intention to give you title?</p> <p>4 A. She did not intend that.</p> <p>5 Q. So I ask you again, why is your</p> <p>6 name still on there is my question.</p> <p>7 A. Because we're husband and wife and</p> <p>8 it's both of our house.</p> <p>9 Q. Were you husband and wife before</p> <p>10 she transferred the house to you?</p> <p>11 A. Yes.</p> <p>12 Q. How long were you -- when were you</p> <p>13 married?</p> <p>14 A. We bought the house in '99.</p> <p>15 Q. We bought the house?</p> <p>16 A. I mean, my wife's father gave her</p> <p>17 the money to buy the house, so together we</p> <p>18 bought the house in '99. And since then, until</p> <p>19 2003, my wife had it in her name under Yocheved</p> <p>20 Michaelashvilli, that's her maiden name.</p> <p>21 And in 2004, as I told you, there</p> <p>22 was a time that she did not make payments on</p> <p>23 time and we needed to refinance, so we did it</p> <p>24 under my name in order to be able to have a</p> <p>25 creditworthy borrower.</p> |

24 (Pages 90 - 93)

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| <p style="text-align: right;">Page 94</p> <p>1 Ruben Elberg</p> <p>2 MR. McCARTHY: Just one thing,</p> <p>3 Ruben, just for purposes of this particular</p> <p>4 question, he asked you when you were</p> <p>5 married.</p> <p>6 A. Oh, I apologize.</p> <p>7 MR. McCARTHY: Can you provide when</p> <p>8 you got married?</p> <p>9 A. We got married in 1985, I</p> <p>10 apologize.</p> <p>11 Q. Do you have Exhibit 5 still in</p> <p>12 front of you, the personal financial statement</p> <p>13 to Alma Bank?</p> <p>14 A. Yes.</p> <p>15 Q. Fred Roth is listed as your</p> <p>16 accountant. Is he still your accountant?</p> <p>17 A. No, he's not anymore.</p> <p>18 Q. When did he stop being your</p> <p>19 accountant?</p> <p>20 A. In 2013 when he stopped, when I</p> <p>21 found out he made major mistakes, and I just</p> <p>22 could not continue with him.</p> <p>23 Q. Do you have an accountant today?</p> <p>24 A. No, not yet.</p> <p>25 Q. Have you had any accountant since</p> | <p style="text-align: right;">Page 96</p> <p>1 Ruben Elberg</p> <p>2 that?</p> <p>3 A. Yes.</p> <p>4 Q. What is that, why did you get</p> <p>5 \$104,000, what year was that?</p> <p>6 A. What year is this, this is 2012.</p> <p>7 Q. Right. So in the 12 months before</p> <p>8 you signed this, you had \$104,000 in consulting</p> <p>9 income?</p> <p>10 A. I was working for JEB Management</p> <p>11 and running the real estate. Now, the income</p> <p>12 was for my portion of the cabs above and beyond</p> <p>13 Jacob's management fees that he was taking.</p> <p>14 He was running JEB Management, my</p> <p>15 two and a half cab corporations, and some of</p> <p>16 that income that was above and beyond our</p> <p>17 mortgages that we had to pay for, you know, the</p> <p>18 Capital One mortgages that we had, I was getting</p> <p>19 the additional funds that was coming from JEB</p> <p>20 Management.</p> <p>21 Q. This says it's for consulting.</p> <p>22 A. There was a portion for like a W-2,</p> <p>23 a small portion of it, and that was for</p> <p>24 consulting, but most of the money was coming</p> <p>25 from is the taxicab companies from JEB</p> |
| <p style="text-align: right;">Page 95</p> <p>1 Ruben Elberg</p> <p>2 2013?</p> <p>3 A. No.</p> <p>4 Q. You filed for the extension</p> <p>5 yourself?</p> <p>6 A. No, he did it, and since then he</p> <p>7 gave me tax returns without the proper</p> <p>8 information. And once I found out there were</p> <p>9 mistakes, I didn't want to file it.</p> <p>10 Q. On Page 2 of that document, it says</p> <p>11 you have a Citibank checking account with \$5,000</p> <p>12 in it at that point, do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What became of that account?</p> <p>15 A. We transferred it to Capital One.</p> <p>16 We don't have that anymore.</p> <p>17 Q. Who is we?</p> <p>18 A. I did.</p> <p>19 Q. When did you transfer it to Capital</p> <p>20 One?</p> <p>21 A. When I opened up at Capital One. I</p> <p>22 don't remember the date.</p> <p>23 Q. Do you remember the year?</p> <p>24 A. No.</p> <p>25 Q. 104,000 consulting income, you see</p> | <p style="text-align: right;">Page 97</p> <p>1 Ruben Elberg</p> <p>2 Management.</p> <p>3 Q. You have, a little higher on the</p> <p>4 page it says other investments, \$703,000, you</p> <p>5 see that?</p> <p>6 A. Yes.</p> <p>7 Q. What's that?</p> <p>8 A. I had purchased a ferry boat in N.</p> <p>9 Minue, Inc., the company I mentioned before, and</p> <p>10 I paid \$126,000 for that. And originally it was</p> <p>11 destined to go back into service at Governors</p> <p>12 Island because it was the former ferry boat for</p> <p>13 Governors Island, but that got delayed in</p> <p>14 negotiations with the operator and did not come</p> <p>15 to fruition.</p> <p>16 So we were looking for other uses,</p> <p>17 potentially to do a dockside for a food and</p> <p>18 beverage operation, restaurant, catering.</p> <p>19 Q. What was the source of the</p> <p>20 \$800,000?</p> <p>21 A. I said I paid 126,000.</p> <p>22 Q. I'm sorry, you said you paid</p> <p>23 \$126,000 for it?</p> <p>24 A. That's what I said.</p> <p>25 Q. That was your money?</p> |

25 (Pages 94 - 97)

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| <p style="text-align: right;">Page 98</p> <p>1 Ruben Elberg</p> <p>2 A. That was my money.</p> <p>3 Q. Where did you get that money?</p> <p>4 A. It was either 1998, my father and I</p> <p>5 were thinking of investing in this venture, and</p> <p>6 my father had refinanced and he had given me the</p> <p>7 money to invest in this venture at that time.</p> <p>8 Q. Your father gave it to you?</p> <p>9 A. He gave it to me, and he was</p> <p>10 supposed to be a partner in this deal, but for</p> <p>11 whatever reason, he never came through in doing</p> <p>12 whatever the original plans were with it.</p> <p>13 Q. You owned a ferry boat through N.</p> <p>14 Minue, Inc.?</p> <p>15 A. Yes.</p> <p>16 Q. You were the sole shareholder of N.</p> <p>17 Minue, Inc.?</p> <p>18 A. Yes.</p> <p>19 Q. Where did you get the value for the</p> <p>20 ferry boat for \$703,000 in 2012?</p> <p>21 A. When there was, you see a ferry</p> <p>22 boat is like, it's an asset. If you have a use</p> <p>23 for it and if it has a need, it has a value. If</p> <p>24 it has no need, it's a liability, right.</p> <p>25 So at one time there was about 450</p> | <p style="text-align: right;">Page 100</p> <p>1 Ruben Elberg</p> <p>2 A. No. I wouldn't put any money into</p> <p>3 it because it's just not productive. Even if I</p> <p>4 had money, I wouldn't put money into it.</p> <p>5 Q. Do you own it personally now?</p> <p>6 A. No, it was purchased in the</p> <p>7 corporate name.</p> <p>8 Q. What's the status of that</p> <p>9 corporation?</p> <p>10 A. What do you mean?</p> <p>11 Q. Is it in good standing, is it an</p> <p>12 operating company?</p> <p>13 A. There was no income in the company,</p> <p>14 so there's really nothing happening with it.</p> <p>15 Q. But it's still an existing</p> <p>16 corporation?</p> <p>17 A. I have to check that, if it was, if</p> <p>18 it was dissolved or it's still an existing</p> <p>19 corporation. I don't know, I haven't checked it</p> <p>20 recently.</p> <p>21 Q. Did you take any steps to dissolve</p> <p>22 it?</p> <p>23 A. No.</p> <p>24 Q. Do you think it may be dissolved</p> <p>25 for failure to pay some tax or anything?</p> |
| <p style="text-align: right;">Page 99</p> <p>1 Ruben Elberg</p> <p>2 or \$500,000 offer from people at Governors</p> <p>3 Island, the operators of the other vessel, the</p> <p>4 sister vessel at Governors Island.</p> <p>5 And for some reason, we were told</p> <p>6 that it was worth in the \$700,000 range by other</p> <p>7 people who knew the market. We took basically</p> <p>8 what we were told by others in the industry, but</p> <p>9 we had a range of a \$400,000 offer.</p> <p>10 And now we have no offers, so it's</p> <p>11 just been sitting, unfortunately rotting away</p> <p>12 until we get a use service for it.</p> <p>13 Q. Where is it?</p> <p>14 A. Staten Island.</p> <p>15 Q. Do you have to pay any money to</p> <p>16 keep it up?</p> <p>17 A. Yes, I owe the dock alone over</p> <p>18 \$100,000 just in dockage fees.</p> <p>19 Q. Any other amounts you need to pay</p> <p>20 to keep it up?</p> <p>21 A. No.</p> <p>22 Q. Just dockage fees?</p> <p>23 A. Yes.</p> <p>24 Q. There's no maintenance or anything</p> <p>25 that needs to be done on it?</p> | <p style="text-align: right;">Page 101</p> <p>1 Ruben Elberg</p> <p>2 A. I don't think so. I didn't have</p> <p>3 anything that I had to pay that I didn't pay,</p> <p>4 no.</p> <p>5 Q. So why do you think it may be</p> <p>6 dissolved?</p> <p>7 A. I just don't know.</p> <p>8 Q. You're the sole shareholder of that</p> <p>9 company, right?</p> <p>10 A. Yes.</p> <p>11 Q. Does the owner of the dock have</p> <p>12 some kind of lien on the ferry?</p> <p>13 A. Yes, he owed all this money, so he</p> <p>14 tells me all the time, the ferry is not worth</p> <p>15 anything, it's mine practically. He jokes</p> <p>16 around with me.</p> <p>17 There's no official lien. We're on</p> <p>18 friendly terms. He knows when things turn</p> <p>19 around for me I'll pay him. I don't have any</p> <p>20 interest in hurting him. When I had money, I</p> <p>21 paid whatever I could. I've never hurt the man.</p> <p>22 Q. You never what?</p> <p>23 A. I never hurt the man.</p> <p>24 MR. FORSTOT: Why don't we, since</p> <p>25 lunch has been brought in. We're going for</p> |

26 (Pages 98 - 101)

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| <p style="text-align: right;">Page 102</p> <p>1 Ruben Elberg</p> <p>2 about an hour, let's take a break.</p> <p>3 MR. McCARTHY: Before we go off the</p> <p>4 record, there's a Social Security number</p> <p>5 that hasn't been redacted. Whenever we do</p> <p>6 the final exhibits, can we just redact it</p> <p>7 for future use?</p> <p>8 MR. FORSTOT: I guess. All right.</p> <p>9 You brought your own lunch, I understand.</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. FORSTOT: And you want to grab</p> <p>12 something?</p> <p>13 MR. McCARTHY: Sure.</p> <p>14 MR. FORSTOT: There's a breakout</p> <p>15 room if you want to sit in there. We can</p> <p>16 go off the record.</p> <p>17 (Whereupon at 12:09 p.m. a luncheon</p> <p>18 recess was taken.)</p> <p>19 (1040 U.S. Individual Tax Return</p> <p>20 for 2012 was hereby marked as Plaintiff's</p> <p>21 Exhibit 9 for identification, as of this</p> <p>22 date.)</p> <p>23 AFTERNOON SESSION</p> <p>24 (Time noted: 12:46 p.m.)</p> <p>25 Q. Tell me about your education.</p> | <p style="text-align: right;">Page 104</p> <p>1 Ruben Elberg</p> <p>2 industry.</p> <p>3 Q. Right, my question was, you said --</p> <p>4 MR. McCARTHY: Yashiva University</p> <p>5 at Avenue M.</p> <p>6 A. And East 14th Street. It was</p> <p>7 called BTA, but it was part of Yashiva</p> <p>8 University.</p> <p>9 Q. What did you study when you were</p> <p>10 there?</p> <p>11 A. It's a high school.</p> <p>12 Q. Oh, it's a high school?</p> <p>13 A. It's called the Yashiva University</p> <p>14 High School.</p> <p>15 Q. I didn't understand that. Did you</p> <p>16 graduate?</p> <p>17 A. No.</p> <p>18 Q. Did you get a GED?</p> <p>19 A. I don't think so. I don't have, I</p> <p>20 didn't need it for what I was doing.</p> <p>21 Q. How long did you work in the</p> <p>22 jewelry or gem industry?</p> <p>23 A. '77 to '88.</p> <p>24 Q. So 11 years. Did you work at one</p> <p>25 place?</p> |
| <p style="text-align: right;">Page 103</p> <p>1 Ruben Elberg</p> <p>2 A. What specifically would you like to</p> <p>3 know?</p> <p>4 Q. Did you go to school?</p> <p>5 A. Yes.</p> <p>6 Q. Tell me about where you went, when</p> <p>7 and for how long?</p> <p>8 A. Until 13 years old I was, actually,</p> <p>9 until 11, 1973, so until 12 I was in Russia, and</p> <p>10 we came here in 1973, approximately.</p> <p>11 I went to Yashiva here in Ocean</p> <p>12 Parkway. Then I went to Yashiva University on</p> <p>13 Avenue M thereafter.</p> <p>14 MR. McCARTHY: Yashiva University</p> <p>15 you said?</p> <p>16 THE WITNESS: Yes.</p> <p>17 Q. Did you get a degree?</p> <p>18 A. No.</p> <p>19 Q. What did you study at Yashiva</p> <p>20 University?</p> <p>21 A. I didn't get a degree. I left to</p> <p>22 go to 47th Street to start learning gemology and</p> <p>23 mineralogy to become a gemologist in 1977, early</p> <p>24 on, you know, in my life. And I became a</p> <p>25 gemologist and started working in the jewelry</p> | <p style="text-align: right;">Page 105</p> <p>1 Ruben Elberg</p> <p>2 A. No, initially I worked in 30 West</p> <p>3 -- I don't remember. EGL, EGL which was</p> <p>4 European Gem Labs, and I started out being</p> <p>5 trained as a gemologist, and then I became -- it</p> <p>6 was an important position there.</p> <p>7 Q. A what?</p> <p>8 A. I took an important position there.</p> <p>9 I was practically managing.</p> <p>10 Q. Managing what?</p> <p>11 A. The gem lab.</p> <p>12 Q. What do they do at a gem lab?</p> <p>13 A. They examine diamonds and colored</p> <p>14 stones and they give certifications.</p> <p>15 Q. When did you leave there?</p> <p>16 A. So three years, I would say '80,</p> <p>17 '81.</p> <p>18 Q. What did you do after that?</p> <p>19 A. '81 I became, I worked, I had Ruben</p> <p>20 Elberg Diamond Company.</p> <p>21 Q. You had your own diamond company?</p> <p>22 A. I was trying to broker and, you</p> <p>23 know.</p> <p>24 Q. How long did you do that for?</p> <p>25 A. '88, until 1988.</p> |

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| <p style="text-align: right;">Page 106</p> <p>1 Ruben Elberg</p> <p>2 Q. So from '77 through '88, you were</p> <p>3 in the gem industry. From '77 to '81, you</p> <p>4 worked for EGL?</p> <p>5 A. EGL.</p> <p>6 Q. And then from '81 to '88 you had</p> <p>7 your own business; is that right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. How much was your salary,</p> <p>10 approximately, when you left EGL?</p> <p>11 A. I don't remember the details now.</p> <p>12 Q. Do you have any idea, a vague idea</p> <p>13 even of how much you were making, do you know</p> <p>14 how much?</p> <p>15 A. Is it relevant here in this case?</p> <p>16 MR. McCARTHY: If you have a</p> <p>17 recollection.</p> <p>18 A. I don't have a recollection.</p> <p>19 Q. For somebody with your experience,</p> <p>20 how much do you think you could make if you got</p> <p>21 a job in that area in the gem business today?</p> <p>22 A. I don't know. I have not been in</p> <p>23 the industry since '88, so I don't know.</p> <p>24 Q. Why did you stop being a broker of</p> <p>25 your own business Ruben Elberg Diamonds, was</p> | <p style="text-align: right;">Page 108</p> <p>1 Ruben Elberg</p> <p>2 own business, Ruben Elberg Diamonds, how much</p> <p>3 was your income?</p> <p>4 A. I don't remember. It was too many</p> <p>5 years ago.</p> <p>6 Q. No idea?</p> <p>7 A. I don't remember it now.</p> <p>8 Q. A million dollars?</p> <p>9 A. No.</p> <p>10 Q. Half a million?</p> <p>11 A. No, less, less.</p> <p>12 Q. 10,000, you have no idea?</p> <p>13 A. It wasn't, it was somewhere in what</p> <p>14 I was making in 2012 tax return or slightly</p> <p>15 more, maybe. I can't remember, I can't say that</p> <p>16 for sure.</p> <p>17 Q. Do you own any gems today?</p> <p>18 A. No, I wish I did.</p> <p>19 Q. Any kind of precious stones or</p> <p>20 metals at all?</p> <p>21 A. No.</p> <p>22 Q. Does your wife?</p> <p>23 A. No.</p> <p>24 Q. She doesn't even have a ring?</p> <p>25 A. An engagement ring, but that's it.</p> |
| <p style="text-align: right;">Page 107</p> <p>1 Ruben Elberg</p> <p>2 that what it was called?</p> <p>3 A. Yes.</p> <p>4 Q. Why did you stop doing that?</p> <p>5 A. My father said it's not enough when</p> <p>6 you help someone with money, I need physical</p> <p>7 help. So I'm not managing here with the, you</p> <p>8 know, taxi business, and I need you to come in</p> <p>9 and help me physically.</p> <p>10 Because all along, from '77 to '88,</p> <p>11 I was helping him financially to get started in</p> <p>12 the yellow cab business, and when anything,</p> <p>13 either to buy some of these corporations or</p> <p>14 whether they were, you know, short in his</p> <p>15 day-to-day operations, because he was always</p> <p>16 trying to grow, refinance and grow, that was the</p> <p>17 approach.</p> <p>18 And he was always short in making</p> <p>19 payments, so I had income from the diamonds, and</p> <p>20 I was trying to help as much as I could</p> <p>21 throughout these years.</p> <p>22 Q. How much did you make annually if</p> <p>23 you could estimate from your --</p> <p>24 MR. FORSTOT: Let me withdraw that.</p> <p>25 Q. The last year you worked in your</p> | <p style="text-align: right;">Page 109</p> <p>1 Ruben Elberg</p> <p>2 Q. Do you have a safe deposit box</p> <p>3 anywhere?</p> <p>4 A. No.</p> <p>5 Q. Does your wife?</p> <p>6 A. No.</p> <p>7 Q. Do any of your children have safe</p> <p>8 deposit boxes that you're aware of?</p> <p>9 A. No, not that I know of. I should</p> <p>10 not say that. Not that I know of.</p> <p>11 Q. This is Exhibit 9. Exhibit 9 is</p> <p>12 your 2012 tax return, correct?</p> <p>13 A. Yes.</p> <p>14 Q. You just referenced that as a way</p> <p>15 to understand how much you were making when you</p> <p>16 had your own business. So does that mean you</p> <p>17 were bringing in roughly \$86,000?</p> <p>18 A. Maybe more, maybe more in diamonds.</p> <p>19 I don't remember, I can't tell you for sure.</p> <p>20 Q. Is this the last tax return you</p> <p>21 filed?</p> <p>22 A. Yes.</p> <p>23 Q. What is the source of the</p> <p>24 miscellaneous compensation of \$86,000 reflected</p> <p>25 in this tax return?</p> |

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| <p style="text-align: right;">Page 110</p> <p>1 Ruben Elberg</p> <p>2 A. I told you that JEB Management had</p> <p>3 income from my cabs, he was giving me</p> <p>4 distribution from my three cab companies.</p> <p>5 Q. You said he was giving, who he is?</p> <p>6 A. My father through JEB Management,</p> <p>7 because I told you all the moneys were going</p> <p>8 into JEB Management, and JEB Management was the</p> <p>9 co-guarantor for these corporations.</p> <p>10 So all the money was being funneled</p> <p>11 from the taxi companies into JEB Management, and</p> <p>12 it was all being distributed, mortgage payments</p> <p>13 and whatever had to be done. I don't know</p> <p>14 exactly, I can't tell you for sure how the money</p> <p>15 was being paid to Capital One.</p> <p>16 I believe my father was</p> <p>17 transferring moneys from one account to another.</p> <p>18 He always had computer transfers that he was</p> <p>19 always doing, that's how he handled it.</p> <p>20 Q. Did that amount stay the same, did</p> <p>21 it vary from year to year?</p> <p>22 A. It ranged between 80 to \$100,000,</p> <p>23 in that range, 120 maybe, I don't remember.</p> <p>24 Q. That has now ended because of what</p> <p>25 you testified before --</p> | <p style="text-align: right;">Page 112</p> <p>1 Ruben Elberg</p> <p>2 difference between Surrogate's, is it the same</p> <p>3 thing?</p> <p>4 Q. I'm using the wrong term.</p> <p>5 Surrogate's Court, the court that handles your</p> <p>6 father's estate.</p> <p>7 A. Correct.</p> <p>8 Q. And you're also involved in a</p> <p>9 litigation in Supreme Court with your sister?</p> <p>10 A. Yes. Unfortunately, when she took</p> <p>11 control of these companies --</p> <p>12 MR. McCARTHY: I'm going to, Ruben,</p> <p>13 to move it along, just answer the question</p> <p>14 that he's asking.</p> <p>15 A. Just repeat the question.</p> <p>16 Q. I'm trying to get the lay of the</p> <p>17 land on how many litigations you're involved</p> <p>18 with where the issue is who owns the medallion</p> <p>19 companies and whether you're entitled to a</p> <p>20 certain percentage interest in the entities that</p> <p>21 own the real estate where the hotels would be</p> <p>22 developed. Tell me how many litigations are</p> <p>23 involved there.</p> <p>24 A. There is one litigation in the</p> <p>25 Surrogate's Court or maybe the second one she</p> |
| <p style="text-align: right;">Page 111</p> <p>1 Ruben Elberg</p> <p>2 A. Yes.</p> <p>3 Q. -- the dispute you're having with</p> <p>4 your sister about whether the estate owns those</p> <p>5 medallion entities or you do?</p> <p>6 A. Yes.</p> <p>7 Q. Just to be clear, is there a court</p> <p>8 order that says you can't be involved in the</p> <p>9 management at this point of those companies?</p> <p>10 A. I don't want to misstate anything,</p> <p>11 but to my recollection, they said I can act as</p> <p>12 an executor, but not as a sole decision maker,</p> <p>13 if I understand correctly the court's</p> <p>14 recommendation or decision, whatever it was</p> <p>15 then.</p> <p>16 Q. The court, meaning the Probate</p> <p>17 Court?</p> <p>18 A. Yes, the Probate Court.</p> <p>19 Q. Let's talk about the litigations</p> <p>20 then. You're involved in a litigation in</p> <p>21 Probate Court; is that right?</p> <p>22 A. I don't know.</p> <p>23 MR. McCARTHY: Surrogate's Court.</p> <p>24 Q. Sorry, Surrogate's Court.</p> <p>25 A. Forgive me, I don't know the</p> | <p style="text-align: right;">Page 113</p> <p>1 Ruben Elberg</p> <p>2 started to remove me as an executor, that's in</p> <p>3 the Surrogate's.</p> <p>4 And then in the Supreme Court,</p> <p>5 there was one litigation that was not started by</p> <p>6 me, it was started by the limited partnership</p> <p>7 partners against me and the LLCs.</p> <p>8 And there was a decision by Ramos,</p> <p>9 Judge Ramos to give control to a person that's</p> <p>10 not a member nor a partner in the limited</p> <p>11 partnerships, and that's on appeal with Judge</p> <p>12 Catterson in the First Department.</p> <p>13 So those are the cases I can point</p> <p>14 to right now, other than the Capital One</p> <p>15 judgment that I have that's on a personal</p> <p>16 guarantee.</p> <p>17 Q. Right. I'm just talking about the</p> <p>18 cases where there's, where it may be decided</p> <p>19 whether you have an interest or not in these</p> <p>20 entities or whether the estate is the right</p> <p>21 party, and then whether you have a 40 percent</p> <p>22 interest as a Class D member of these LLCs,</p> <p>23 sorry, LLPs.</p> <p>24 A. I have to clarify that.</p> <p>25 Q. Sure.</p> |

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| <p style="text-align: right;">Page 114</p> <p>1 Ruben Elberg</p> <p>2 A. In the Surrogate's Court, my sister</p> <p>3 moved for a turnover proceeding. Initially,</p> <p>4 Jacob was the sole owner of the taxicab</p> <p>5 corporations and Jacob was also the sole owner</p> <p>6 of RORE and RREM.</p> <p>7 If you remember when I said before</p> <p>8 that the yellow cabs that took the loans to</p> <p>9 RORE, capital contributions or loans to RORE,</p> <p>10 RORE and RREM are the sole owners of everything.</p> <p>11 There is no new limited partnerships that I'm</p> <p>12 going to describe in a second.</p> <p>13 So having said that, she said the</p> <p>14 Class C interest is all owned by Jacob, there is</p> <p>15 no 60/40. She claims the same thing in the</p> <p>16 limited partnership litigation as well.</p> <p>17 So there's documentation, many</p> <p>18 documents on the level of RORE and RREM, that's</p> <p>19 where the money actually went, and she actually</p> <p>20 did not deposit those moneys into the RORE and</p> <p>21 RREM accounts, she took it to the estate account</p> <p>22 which is also inappropriate. That was not the</p> <p>23 intent of the Judge when he gave her that power.</p> <p>24 Q. So in the Probate Court --</p> <p>25 A. It's an LLC litigation about the</p> | <p style="text-align: right;">Page 116</p> <p>1 Ruben Elberg</p> <p>2 executor to pay legal fees to protect the</p> <p>3 interests of Merrill and Spindle. When I started</p> <p>4 using funds to pay for legal fees, she moved to</p> <p>5 remove me as an executor for spending moneys</p> <p>6 that don't belong to me. Those are the</p> <p>7 litigations in the Surrogate's Court, and that's</p> <p>8 the status, to my understanding.</p> <p>9 Q. What has to be done to move that</p> <p>10 forward to a decision? I assume you're anxious</p> <p>11 to get a decision on that, aren't you?</p> <p>12 A. I am, and I just changed my legal</p> <p>13 team, and I'm trying to get resolutions on these</p> <p>14 issues.</p> <p>15 Q. You said you changed your legal</p> <p>16 team, what do you mean?</p> <p>17 A. I had a single practitioner who was</p> <p>18 devoted and hard working, but he had limits. He</p> <p>19 told me, he was a friend --</p> <p>20 MR. McCARTHY: Don't discuss what</p> <p>21 you discussed with him. Just again, answer</p> <p>22 the question as was asked.</p> <p>23 Q. So did you replace -- who was the</p> <p>24 sole practitioner?</p> <p>25 A. Levi Heubner.</p> |
| <p style="text-align: right;">Page 115</p> <p>1 Ruben Elberg</p> <p>2 LLC ownership.</p> <p>3 Q. In the Probate Court?</p> <p>4 A. In the Surrogate's Court.</p> <p>5 Q. The Surrogate's Court. In the</p> <p>6 Surrogate's Court, what is the status of the</p> <p>7 litigation? And what I mean by that, you know,</p> <p>8 do you have any hearings coming up, is there a</p> <p>9 trial coming up, how and when is it going to be</p> <p>10 decided who owned these entities?</p> <p>11 A. Pewzner moved that I should move</p> <p>12 for a turnover proceeding on these assets. The</p> <p>13 Judge said that I've shown prima facie evidence</p> <p>14 of my 40 percent ownership and the taxicab</p> <p>15 ownership. So she has to come and on law prove</p> <p>16 why I don't own these interests, and she has not</p> <p>17 pursued it further.</p> <p>18 But what she had done, she moved</p> <p>19 then to remove me as an executor for using some</p> <p>20 of the proceeds from two taxi corporations to</p> <p>21 pay for legal fees.</p> <p>22 The Judge allowed me to pay, to act</p> <p>23 as an executor and pay whatever fees are</p> <p>24 necessary as an executor.</p> <p>25 So I said, I'm using my power as an</p> | <p style="text-align: right;">Page 117</p> <p>1 Ruben Elberg</p> <p>2 Q. You said he's still giving you</p> <p>3 advice even though he's no longer your counsel</p> <p>4 on the case; is that right?</p> <p>5 A. I still talk to him because he's a</p> <p>6 friend, and he might be representing me in other</p> <p>7 things now.</p> <p>8 Q. Who is representing you now in the</p> <p>9 Surrogate's Court?</p> <p>10 A. Abrams Fensterman.</p> <p>11 Q. Are there any court dates coming up</p> <p>12 in that case?</p> <p>13 A. I don't have the records of that in</p> <p>14 front of me, but there's an appeal and a</p> <p>15 decision of the judge in Surrogate's Court, and</p> <p>16 I don't know if that's, how that's going to play</p> <p>17 out. I'm not sure on the status.</p> <p>18 I'm still in discussions with my</p> <p>19 legal team how to proceed there, but we just</p> <p>20 gave an answer on the removal as an executor, we</p> <p>21 just responded to the documents.</p> <p>22 Q. As of now, you're still an</p> <p>23 executor?</p> <p>24 A. Yes.</p> <p>25 Q. As of this point, you don't know if</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 Ruben Elberg</p> <p>2 there is some end of sight by date when all this</p> <p>3 will be resolved in the Surrogate's Court?</p> <p>4 A. In the Surrogate's Court, it's</p> <p>5 difficult to say because that looks like a more</p> <p>6 complicated issue, but that's where all the</p> <p>7 money is, and that's where she claims that only</p> <p>8 Class C exists.</p> <p>9 So whether it's Class C or not,</p> <p>10 moneys were borrowed from taxi corporations. It</p> <p>11 was put in the capital contributions into these</p> <p>12 companies, and it has to be paid back to these</p> <p>13 taxi corporations. She took it, she didn't even</p> <p>14 deposit it.</p> <p>15 She represented in front of Ramos</p> <p>16 that she was going to put it in escrow, the</p> <p>17 whole amount of the sale she was going to put in</p> <p>18 escrow. She didn't do that.</p> <p>19 She took the money and she put it</p> <p>20 into three, four different places, I don't know</p> <p>21 where exactly and how she distributed the money.</p> <p>22 I don't have the full detailed information. But</p> <p>23 she did not -- her lawyer made clear</p> <p>24 representations in front of Judge Ramos that she</p> <p>25 was going to put it all in escrow until this</p> | <p style="text-align: right;">Page 120</p> <p>1 Ruben Elberg</p> <p>2 A. I can't discuss our plans right now</p> <p>3 with our new team, but there are plans to get</p> <p>4 that resolved sooner rather than later.</p> <p>5 Q. It's in your interest to get it</p> <p>6 resolved as soon as possible, right?</p> <p>7 A. Yes.</p> <p>8 Q. Because right now you have no</p> <p>9 income from them?</p> <p>10 A. You see my position, I'm telling</p> <p>11 you the truth.</p> <p>12 Q. You have to, you're under oath. So</p> <p>13 the issue of who owns or who did own or --</p> <p>14 MR. FORSTOT: Let me withdraw that.</p> <p>15 Q. The issue of whether you were</p> <p>16 entitled to a 40 percent interest in these</p> <p>17 entities that own the real estate --</p> <p>18 A. The LLCs.</p> <p>19 Q. The LLCs, LLPs?</p> <p>20 A. There are two levels. Let's be</p> <p>21 clear. The LLC is very important because she</p> <p>22 claims that's the company that owns everything,</p> <p>23 right, and that's where the money was supposed</p> <p>24 to go but it didn't go there. It went into an</p> <p>25 estate account, it went into another account.</p> |
| <p style="text-align: right;">Page 119</p> <p>1 Ruben Elberg</p> <p>2 issue is resolved.</p> <p>3 She paid a substantial amount of</p> <p>4 money in taxes. She put moneys in escrow with</p> <p>5 the buyer because the buyer -- the seller, the</p> <p>6 buyer actually, he feels he's got exposure</p> <p>7 because the Judge never gave her authority to</p> <p>8 sell the Class D interests and she sold it</p> <p>9 anyway.</p> <p>10 Also, we submitted a dissent letter</p> <p>11 not to allow her to sell the Class C interest or</p> <p>12 Class D as a 40 percent interest holder, and she</p> <p>13 went ahead and did it anyway.</p> <p>14 Q. Let's put that on hold for a</p> <p>15 minute. I just want to get back to Surrogate's</p> <p>16 Court for a second. So in Surrogate's Court, is</p> <p>17 it your understanding that the issue of who owns</p> <p>18 the medallion entities we've been talking about</p> <p>19 today, is that one of the issues that the</p> <p>20 Surrogate's Court will decide, is being asked to</p> <p>21 decide?</p> <p>22 A. She asked them to decide that, yes.</p> <p>23 Q. As far as you know, there is no</p> <p>24 date by which that's going to happen, either</p> <p>25 through an argument on a motion or a trial?</p> | <p style="text-align: right;">Page 121</p> <p>1 Ruben Elberg</p> <p>2 Q. Understood. Is that also something</p> <p>3 that the Surrogate's Court is being asked to</p> <p>4 decide?</p> <p>5 A. Yes.</p> <p>6 Q. Is there a date, either through</p> <p>7 argument or trial, argument on a motion or trial</p> <p>8 by which that is going to be decided?</p> <p>9 A. I don't have a clear date, and I</p> <p>10 don't know.</p> <p>11 Q. That's also in your interest to get</p> <p>12 if resolved quickly, right?</p> <p>13 A. Yes.</p> <p>14 Q. Although not quite as pressing</p> <p>15 because it's not the income, it's something in</p> <p>16 addition to what used to be the income you lived</p> <p>17 on?</p> <p>18 A. Correct.</p> <p>19 Q. So there's also the issue of</p> <p>20 whether you should be continued as co-executor,</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. Are there any other issues that you</p> <p>24 are aware of that would be decided by the</p> <p>25 Surrogate's Court?</p> |

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| <p style="text-align: right;">Page 122</p> <p>1 Ruben Elberg</p> <p>2 A. No.</p> <p>3 Q. Assuming you lose on all these</p> <p>4 things and it's decided that the estate is the</p> <p>5 real owner of the medallion entities and you're</p> <p>6 not entitled to 40 percent of the proceeds of</p> <p>7 the sale, you're still a beneficiary of the</p> <p>8 estate; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. That's your understanding?</p> <p>11 A. Yes.</p> <p>12 Q. And you would be sharing pro rata</p> <p>13 with how many people?</p> <p>14 A. Four.</p> <p>15 Q. So there is a distribution that you</p> <p>16 think would be made to you?</p> <p>17 A. Yes.</p> <p>18 Q. It doesn't all go to your mother?</p> <p>19 A. Well, the will was structured in</p> <p>20 such a manner that the yellow cabs, only the</p> <p>21 cabs that my father owned goes to my mother.</p> <p>22 There are two trusts that were</p> <p>23 created simultaneously, one is a Q-tip trust,</p> <p>24 and I don't remember the second name, but it's</p> <p>25 in the will, it's in the papers.</p> | <p style="text-align: right;">Page 124</p> <p>1 Ruben Elberg</p> <p>2 in the real estate portion of the estate.</p> <p>3 Q. Because you're one of four?</p> <p>4 A. Four siblings on Jacob's will.</p> <p>5 Q. That's supposed to happen, that</p> <p>6 doesn't have to await your mother passing away?</p> <p>7 A. It does.</p> <p>8 Q. It doesn't?</p> <p>9 A. It does.</p> <p>10 Q. Oh, it does. So if you lose on</p> <p>11 everything, you're not going to be entitled to</p> <p>12 anything until that happens?</p> <p>13 A. Right.</p> <p>14 Q. That's your understanding?</p> <p>15 A. Yes.</p> <p>16 Q. Now, let's move to the Supreme</p> <p>17 Court action before Justice Ramos. What, if</p> <p>18 anything, is still to be decided there?</p> <p>19 A. There was a decision by Judge Ramos</p> <p>20 that was decided that Pewzner becomes the</p> <p>21 manager of the LLCs, the limited partnerships,</p> <p>22 and she has to do -- he gave her broad rights</p> <p>23 without admitting in the court, the first thing</p> <p>24 he said, I didn't read the papers, I thought</p> <p>25 this was settled.</p> |
| <p style="text-align: right;">Page 123</p> <p>1 Ruben Elberg</p> <p>2 The real estate holdings were</p> <p>3 supposed to be going into trusts, and the income</p> <p>4 from the real estate, 60 percent interest income</p> <p>5 of those real estate assets were supposed to go</p> <p>6 to my mother. And after 120 of hers, goes to</p> <p>7 the four siblings, the 60 percent is split four</p> <p>8 ways.</p> <p>9 Q. After 120, what does that mean?</p> <p>10 A. After she passes on. I hope she</p> <p>11 lives for a long time.</p> <p>12 Q. So you wouldn't actually be</p> <p>13 entitled to any distribution until after that?</p> <p>14 A. From the 60 percent interest, no.</p> <p>15 From the 40 percent interest, definitely right</p> <p>16 away.</p> <p>17 Q. Right away, okay.</p> <p>18 MR. McCARTHY: Are you claiming</p> <p>19 that the 40 percent interest is within the</p> <p>20 estate or that you own it personally?</p> <p>21 THE WITNESS: Personally.</p> <p>22 Q. The premise of my question is you</p> <p>23 lose on everything. I'm just trying to find out</p> <p>24 if you're still entitled to something.</p> <p>25 A. Yes, there's a 25 percent interest</p> | <p style="text-align: right;">Page 125</p> <p>1 Ruben Elberg</p> <p>2 And then after 15 minutes of</p> <p>3 discussions, he just says, you guys are</p> <p>4 hindering the sale, and he gave her, he signed</p> <p>5 the order without reading the papers.</p> <p>6 Q. That was an issue of whether she</p> <p>7 could go ahead with the sale or not?</p> <p>8 A. Correct.</p> <p>9 Q. Is there anything else in that case</p> <p>10 other than that, any other issue to be decided</p> <p>11 that you know of?</p> <p>12 A. That case was brought by Crabapple,</p> <p>13 Inc. who was an EB-5 capital bundler who sued</p> <p>14 RORE or RREM for performance to make capital</p> <p>15 contributions to the limited partnerships that</p> <p>16 Crabapple invested \$4 million of EB-5 funds</p> <p>17 brought in from China.</p> <p>18 There was another lawsuit, there</p> <p>19 was another \$50 million in another bank trying</p> <p>20 to build these projects, and those investors</p> <p>21 wanted us to perform, and Pewzner decided in</p> <p>22 Jacob's lifetime she was not interested in these</p> <p>23 projects to go forward.</p> <p>24 Definitely when he's not here, she</p> <p>25 had some say. She did everything she could to</p> |

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| <p style="text-align: right;">Page 126</p> <p>1 Ruben Elberg</p> <p>2 try to undermine the projects.</p> <p>3 Q. My question is, is there anything</p> <p>4 else to be decided on that case other than the</p> <p>5 issue that has been decided?</p> <p>6 A. If it's overturned and brought back</p> <p>7 to Ramos, then this litigation, I guess, would,</p> <p>8 depending on what the decision is, would go back</p> <p>9 and be adjudicated either by Ramos or by someone</p> <p>10 else.</p> <p>11 Q. Has that been fully briefed up at</p> <p>12 the Appellate Division?</p> <p>13 A. Yes.</p> <p>14 Q. Has there been an argument that's</p> <p>15 happened?</p> <p>16 A. It's happened already and we're</p> <p>17 waiting.</p> <p>18 Q. When was the argument?</p> <p>19 A. On the 25th, not last month. I</p> <p>20 believe it was April 25th maybe.</p> <p>21 Q. Any other litigation going on that</p> <p>22 will affect the issue of your ownership in the</p> <p>23 medallion entities or the LLCs?</p> <p>24 A. No. I'm sorry, Judge Catterson</p> <p>25 brought a, I misspoke, I don't know if it's</p> | <p style="text-align: right;">Page 128</p> <p>1 Ruben Elberg</p> <p>2 accept the service for these nationals, but</p> <p>3 James Catterson is waiting for a decision in the</p> <p>4 First Department before he decides whether to go</p> <p>5 forward with the declaratory judgment or whether</p> <p>6 it's going to be a different circumstance after</p> <p>7 it's overturned.</p> <p>8 Q. I see. So in that case that you</p> <p>9 brought, there were two separate cases, one in</p> <p>10 which there's an appeal and then the one you've</p> <p>11 brought by complaint. One's waiting the appeal</p> <p>12 outcome, and the other is stayed pending the</p> <p>13 appeal?</p> <p>14 A. There's no stay. He wants to see</p> <p>15 if the appeal is done, then he can make a</p> <p>16 decision on how to proceed, because it doesn't</p> <p>17 make sense to pursue it until he gets the final</p> <p>18 decision in the First Department.</p> <p>19 Q. Is there anything else, any other</p> <p>20 litigations where those issues are at issue?</p> <p>21 A. No, not to my recollection. It's</p> <p>22 been so overwhelming that if I forget something,</p> <p>23 forgive me, it's not intentional.</p> <p>24 Q. Mr. Catterson, what firm is he at?</p> <p>25 A. He's at Kaye Scholer.</p> |
| <p style="text-align: right;">Page 127</p> <p>1 Ruben Elberg</p> <p>2 turnover, declaratory judgment in front of Ramos</p> <p>3 and the Class D does exist. She claims it does</p> <p>4 not exist.</p> <p>5 And the partners, everybody claims</p> <p>6 it exists except her. She has no knowledge, she</p> <p>7 is not involved, but she claims it does not</p> <p>8 exist.</p> <p>9 Q. That's a lawsuit that you started?</p> <p>10 A. That's a lawsuit we started with</p> <p>11 Judge Catterson.</p> <p>12 Q. What does that mean?</p> <p>13 A. He is a former judge, I call him</p> <p>14 Judge Catterson, he is James Catterson.</p> <p>15 Q. But he's acting as a lawyer?</p> <p>16 A. He's acting as a lawyer, correct.</p> <p>17 He went in for a declaratory judgment, and</p> <p>18 Pewzner and the other party tried to avoid</p> <p>19 service on the EB-5 investors.</p> <p>20 So Judge Ramos said you received</p> <p>21 the benefit in my court in your favor, and now</p> <p>22 you're trying to say that you're not going to</p> <p>23 accept the service for these foreign nationals</p> <p>24 who cannot be found and they're elsewhere.</p> <p>25 So Judge Ramos forced Crabapple to</p> | <p style="text-align: right;">Page 129</p> <p>1 Ruben Elberg</p> <p>2 Q. Kaye Scholer, right. Are you able</p> <p>3 to pay them their fees?</p> <p>4 MR. McCARTHY: Objection.</p> <p>5 A. I owe them money.</p> <p>6 Q. Have you paid them?</p> <p>7 A. Yes.</p> <p>8 Q. You've already paid them?</p> <p>9 A. Yes.</p> <p>10 Q. You say you owe them. There's an</p> <p>11 outstanding bill that you owe?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know whether they're not</p> <p>14 going to go forward with your case because of</p> <p>15 that?</p> <p>16 MR. McCARTHY: Objection.</p> <p>17 A. They're going forward, so far</p> <p>18 they're going forward.</p> <p>19 Q. Has there been any settlement</p> <p>20 discussion between you and your sister about the</p> <p>21 issue of who owns the medallion entities or</p> <p>22 whether you have an interest in the LLCs?</p> <p>23 MR. McCARTHY: Objection.</p> <p>24 A. There have been many discussions.</p> <p>25 Unfortunately, she was committed to settle</p> |

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| <p style="text-align: right;">Page 130</p> <p>1 Ruben Elberg</p> <p>2 things, and then she, at the last minute she</p> <p>3 undermines the deal. Whatever settlement comes,</p> <p>4 she undermines it. And I've tried at least</p> <p>5 five, six times.</p> <p>6 Q. Are there any discussions ongoing</p> <p>7 now?</p> <p>8 MR. McCARTHY: Objection.</p> <p>9 A. No.</p> <p>10 Q. Other than Capital One and the two</p> <p>11 mortgage holders on your house, do you have any</p> <p>12 other creditors, do you owe money to anybody</p> <p>13 else, you have the Yeshivas, right?</p> <p>14 A. I have many creditors, I can't even</p> <p>15 think about them.</p> <p>16 Q. You have the law firms, who else?</p> <p>17 A. I have many creditors. I don't</p> <p>18 have a settled head to remember all the details.</p> <p>19 Q. Do you have any plans to file</p> <p>20 bankruptcy?</p> <p>21 A. No.</p> <p>22 Q. Have you considered doing so?</p> <p>23 A. No.</p> <p>24 Q. Do you have any claims against</p> <p>25 anybody, any legal claims where you are seeking</p> | <p style="text-align: right;">Page 132</p> <p>1 Ruben Elberg</p> <p>2 A. No, the EB-5 bundler.</p> <p>3 Q. Oh, the bundler.</p> <p>4 A. Who actually worked the deal.</p> <p>5 Q. Crabapple?</p> <p>6 A. Crabapple, NYC MRC West Lead</p> <p>7 Capital.</p> <p>8 Q. So you think you have claims</p> <p>9 against them?</p> <p>10 A. That's for my legal team to decide,</p> <p>11 but I believe so.</p> <p>12 Q. Are you going to assert them soon?</p> <p>13 A. We'll make that decision when we</p> <p>14 get clarity on what's going on further.</p> <p>15 Q. How much do you think they owe you</p> <p>16 or have harmed you by, how much money would you</p> <p>17 seek from them?</p> <p>18 A. I don't have that number yet. I</p> <p>19 have to decide that with my legal team.</p> <p>20 Q. Any other claims against anybody</p> <p>21 else that you can think of?</p> <p>22 A. No.</p> <p>23 Q. Whether you've asserted them or</p> <p>24 not.</p> <p>25 A. No.</p> |
| <p style="text-align: right;">Page 131</p> <p>1 Ruben Elberg</p> <p>2 payment from them? I'm not talking about the</p> <p>3 litigations between you and your sister. I'm</p> <p>4 talking about whether you have asserted -- well,</p> <p>5 it could be your sister, where you've asserted</p> <p>6 that somebody has broken a contract or harmed</p> <p>7 you in some way where you're suing them?</p> <p>8 A. No, not yet.</p> <p>9 MR. McCARTHY: Just to be clear,</p> <p>10 other than the estate litigation and the</p> <p>11 litigation against your sister and other</p> <p>12 entities.</p> <p>13 THE WITNESS: No, nothing.</p> <p>14 Q. Well, you could have a claim</p> <p>15 against your sister if you feel she's harmed</p> <p>16 you.</p> <p>17 A. I have not asserted those claims</p> <p>18 yet. I have many claims, but I have not</p> <p>19 asserted.</p> <p>20 Q. Do you have any claims against your</p> <p>21 sister?</p> <p>22 A. Against my sister, estate, the EB-5</p> <p>23 purchasers who are actually inside buyers.</p> <p>24 Q. Are you saying you have a claim</p> <p>25 against the EB-5 investors, the people in China?</p> | <p style="text-align: right;">Page 133</p> <p>1 Ruben Elberg</p> <p>2 Q. Do you have any 401-Ks or IRAs?</p> <p>3 A. No.</p> <p>4 Q. Any kind of retirement accounts?</p> <p>5 A. No.</p> <p>6 Q. Have you set up any trusts?</p> <p>7 A. No.</p> <p>8 Q. Have you transferred any assets</p> <p>9 that you haven't already talked about today?</p> <p>10 A. No.</p> <p>11 MR. McCARTHY: On the prior</p> <p>12 question, we're not talking about trusts</p> <p>13 that were created under the estate, we're</p> <p>14 talking about trusts he personally created?</p> <p>15 MR. FORSTOT: Yes.</p> <p>16 A. No.</p> <p>17 Q. Have you in the last couple of</p> <p>18 years made any charitable contributions?</p> <p>19 A. Practically none, very little, if</p> <p>20 any. I do the best I can, but nothing, nothing</p> <p>21 much.</p> <p>22 Q. Have you transferred any assets to</p> <p>23 any family members in the last, say since 2012</p> <p>24 that you can recall?</p> <p>25 A. No.</p> |

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| <p style="text-align: right;">Page 134</p> <p>1 Ruben Elberg</p> <p>2 Q. Let's look back at the subpoena</p> <p>3 which is Exhibit 3. Now, there's a list as we</p> <p>4 started to look at on the second page, starting</p> <p>5 on the second page or the first page, and it</p> <p>6 goes on to the second page, you see that?</p> <p>7 A. Yes, I'm looking.</p> <p>8 Q. A list of documents. Hold on, let</p> <p>9 me get my copy. I've got it. Now, we talked</p> <p>10 about your bank account records.</p> <p>11 What I want to know is what you</p> <p>12 did, what you've done or if more needs to be</p> <p>13 done to be able to find any of these documents.</p> <p>14 The bank account records you told me you still</p> <p>15 need to look in your house and to ask the banks</p> <p>16 for those records, right?</p> <p>17 A. Yes.</p> <p>18 Q. What about Number 3, balance sheets</p> <p>19 or other financial statements reflecting your</p> <p>20 assets and liabilities. What did you do to find</p> <p>21 any of those documents?</p> <p>22 A. I gave you whatever I had, I</p> <p>23 believe so, but there's nothing else that I have</p> <p>24 that I can produce.</p> <p>25 Q. I want to know what did you do, did</p> | <p style="text-align: right;">Page 136</p> <p>1 Ruben Elberg</p> <p>2 Q. I guess it's subsumed in that, but</p> <p>3 it's broader than that.</p> <p>4 A. Well, I don't own anything but what</p> <p>5 is in Number 5.</p> <p>6 Q. Okay.</p> <p>7 A. So I believe those documents you</p> <p>8 have, and if you don't, I can supply those</p> <p>9 again.</p> <p>10 Q. When you looked for records, where</p> <p>11 did you look for Number 4 or 5?</p> <p>12 A. Whatever documents I gathered from</p> <p>13 my business relationship with my father, and I</p> <p>14 had records in my office of those documents.</p> <p>15 Q. In your office, where is your</p> <p>16 office?</p> <p>17 A. In my home office. I don't have an</p> <p>18 office now, I have a home office now. I work</p> <p>19 out of my home.</p> <p>20 Q. What you did was you looked through</p> <p>21 your --</p> <p>22 A. My documents and I supplied them.</p> <p>23 Q. You looked through documents in</p> <p>24 your home office, and did you look on your</p> <p>25 computer?</p> |
| <p style="text-align: right;">Page 135</p> <p>1 Ruben Elberg</p> <p>2 you look in your house, do you have computers</p> <p>3 that have records?</p> <p>4 A. Yes, I have a computer.</p> <p>5 Q. Did you search your computer</p> <p>6 records?</p> <p>7 A. I can search further, but financial</p> <p>8 statements and liabilities prepared for any</p> <p>9 reason from 2012 to date, I mean, you have some</p> <p>10 here that you showed us.</p> <p>11 Q. Let me ask you this, did you go</p> <p>12 through this list very carefully and make sure</p> <p>13 you looked for everything that's on this list as</p> <p>14 best you could?</p> <p>15 A. I did the best I could to supply</p> <p>16 you whatever I had.</p> <p>17 Q. So is there anyplace that you still</p> <p>18 need to look to find anything in Number 3?</p> <p>19 A. I don't think so.</p> <p>20 Q. What about Number 4, records</p> <p>21 reflecting your ownership or transfer of your</p> <p>22 interest in real property or interest in any</p> <p>23 entity which owned real property?</p> <p>24 A. Other than the assets that are</p> <p>25 outlined in 5?</p> | <p style="text-align: right;">Page 137</p> <p>1 Ruben Elberg</p> <p>2 A. Yes.</p> <p>3 Q. You gave us everything you had</p> <p>4 there?</p> <p>5 A. Yes.</p> <p>6 Q. Number 6, records reflecting the</p> <p>7 sale of property located at 42-31 and 42-37</p> <p>8 Crescent Street, is that subsumed in Number 5?</p> <p>9 A. Yes, she actually made, she took</p> <p>10 power from Judge Ramos, and she sold everything.</p> <p>11 So since she got that power, I have no</p> <p>12 knowledge.</p> <p>13 I have very little knowledge of</p> <p>14 anything that she did, whether the sale and</p> <p>15 transfer of funds, and anything that she did,</p> <p>16 transferred assets, I have very little records.</p> <p>17 MR. McCARTHY: Could you clarify</p> <p>18 who she is.</p> <p>19 THE WITNESS: Tamara Pewzner.</p> <p>20 Q. You talked about earlier that she</p> <p>21 was supposed to set up escrow.</p> <p>22 A. Yes.</p> <p>23 Q. Why don't you explain that.</p> <p>24 A. If you look into the motion five, I</p> <p>25 believe it was, in front of Judge Ramos, and</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 Ruben Elberg</p> <p>2 Pewzner's counsel Mr. Lehman made</p> <p>3 representations to Judge Ramos that we're not</p> <p>4 taking this money, we're going to sell this and</p> <p>5 we're just going to put it in an escrow that's</p> <p>6 controlled by both of us.</p> <p>7 And in the merger documents, she</p> <p>8 outlined it was supposed to go into an escrow</p> <p>9 account by Chase, JPMorgan Chase.</p> <p>10 And I checked with JPMorgan Chase,</p> <p>11 and they have no records of any escrow accounts</p> <p>12 opened.</p> <p>13 Q. These are the proceeds from the</p> <p>14 sale of the real property?</p> <p>15 A. Of the real assets, yes, of the</p> <p>16 limited partnership.</p> <p>17 Q. Was it the real property or the</p> <p>18 entities?</p> <p>19 A. Of the limited partnerships and of</p> <p>20 the LLCs which she claimed is the owner of</p> <p>21 everything.</p> <p>22 Q. That sale is done and closed,</p> <p>23 right?</p> <p>24 A. She closed on it. She actually did</p> <p>25 a merger. It's really a sale, but she merged</p> | <p style="text-align: right;">Page 140</p> <p>1 Ruben Elberg</p> <p>2 whatever, right; is that right?</p> <p>3 A. So let's start with the limited</p> <p>4 partnerships where there's a declaratory</p> <p>5 judgment on the Class D, okay. That's the</p> <p>6 binding partnership that is in place now and</p> <p>7 effective. If it does get overturned, that will</p> <p>8 be the binding partnership.</p> <p>9 There, if the sale happened, first</p> <p>10 the sale proceeds would be distributed to, there</p> <p>11 are four classes, Class A, B, C and D. Class A</p> <p>12 are the EB-5 investors. Class B is the EB-5</p> <p>13 bundler. Class C was RORE and RREM, and Class D</p> <p>14 was Ruben Elberg.</p> <p>15 So the first sale that transpired,</p> <p>16 the funds would have to go into the limited</p> <p>17 partnerships and then distributed accordingly</p> <p>18 how I just described.</p> <p>19 Q. When you say the funds, does that</p> <p>20 mean all proceeds or the net proceeds of the</p> <p>21 original capital contributions?</p> <p>22 A. All proceeds would go into this</p> <p>23 company, and this company would pay its</p> <p>24 liabilities, this limited partnership would pay</p> <p>25 its liabilities, and then each partner would get</p> |
| <p style="text-align: right;">Page 139</p> <p>1 Ruben Elberg</p> <p>2 the entities into a new corp that are called</p> <p>3 instead of Royal CP Hotel Holdings LP, Royal CP</p> <p>4 Two Hotel Holdings LP.</p> <p>5 And instead of Royal HI Hotel</p> <p>6 Holdings LP, Royal HI Two Hotel Holdings LP.</p> <p>7 And the same thing, I think she did, Pewzner</p> <p>8 transferred the interests of the limited</p> <p>9 liability companies into RORE Two and RREM Two</p> <p>10 in the merger.</p> <p>11 Q. The estate, when you say she, she</p> <p>12 was acting on behalf of the estate?</p> <p>13 A. Right.</p> <p>14 Q. The estate doesn't retain any</p> <p>15 interest in these entities, right?</p> <p>16 A. Not to my knowledge. She was</p> <p>17 controlling the deal. She might have had side</p> <p>18 deals, I don't know, I can't say that.</p> <p>19 Q. The proceeds of that were supposed</p> <p>20 to have been distributed to return the</p> <p>21 investments made by capital contributions made</p> <p>22 by the ultimate partners, and then the net</p> <p>23 proceeds were supposed to be distributed, either</p> <p>24 to you and your father or to your father after</p> <p>25 payment of the EB-5 investors and Crabapple,</p> | <p style="text-align: right;">Page 141</p> <p>1 Ruben Elberg</p> <p>2 their share of the proceeds.</p> <p>3 Q. But that's a net number before the</p> <p>4 partners get their share, right, it's net of</p> <p>5 liabilities?</p> <p>6 A. Can you clarify what you're saying?</p> <p>7 Q. I understood that the proceeds that</p> <p>8 would get distributed to these different classes</p> <p>9 was net of return of original investments.</p> <p>10 A. Correct.</p> <p>11 Q. Is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. And there may be other liabilities.</p> <p>14 A. Correct, correct.</p> <p>15 Q. So those things have to get paid</p> <p>16 first?</p> <p>17 A. Yes, that's what I said.</p> <p>18 Q. Then there's a net amount that is</p> <p>19 disputed to how that gets distributed.</p> <p>20 A. Correct.</p> <p>21 Q. Do you know what that net amount</p> <p>22 is, the total net amount was?</p> <p>23 A. Well, there were two capital</p> <p>24 contributions, RORE contributed into Royal CP</p> <p>25 and Royal HI, and I believe it was about</p> |

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| <p style="text-align: right;">Page 142</p> <p>1 Ruben Elberg</p> <p>2 \$11,800,000 that RORE and RREM contributed into</p> <p>3 the limited partnerships, the Class C partner.</p> <p>4 When those contributions were paid</p> <p>5 back to RORE and RREM, and the \$4 million</p> <p>6 invested by the EB-5 Class A partners got paid</p> <p>7 back, and the interest that was being charged by</p> <p>8 the Class B partner for bundling these Chinese</p> <p>9 investors was paid to the Class B partner,</p> <p>10 right, the profit proceeds were split.</p> <p>11 If there was a consent on my part</p> <p>12 to sell my interest, which there was no consent,</p> <p>13 neither by me nor by Judge Ramos to sell the</p> <p>14 Class D interest in the limited partnership,</p> <p>15 then the profits proceeds would be split 60/40</p> <p>16 between Class C and Class D interest.</p> <p>17 Q. Understood. My question though is,</p> <p>18 what is that amount, the total amount, not the</p> <p>19 60/40, the total amount of net proceeds, the</p> <p>20 profit proceeds you called them.</p> <p>21 A. I don't know, I don't know what she</p> <p>22 did so I can't say for sure. She took power and</p> <p>23 did whatever she wanted, Pewzner.</p> <p>24 Q. You have no idea?</p> <p>25 A. I have no idea what she did.</p> | <p style="text-align: right;">Page 144</p> <p>1 Ruben Elberg</p> <p>2 sharing interest after the Class C gets paid.</p> <p>3 Q. Right.</p> <p>4 A. So the Class C has to get paid</p> <p>5 first.</p> <p>6 Q. Sixty percent?</p> <p>7 A. No, \$11.8 million, and then the</p> <p>8 profit sharing would be there.</p> <p>9 Q. So the 27 is not net of all return</p> <p>10 of capital?</p> <p>11 A. No.</p> <p>12 Q. So it really, the profit is, if 27</p> <p>13 million is correct, you're talking about you're</p> <p>14 fighting over 16 million roughly; is that right?</p> <p>15 A. (No verbal response.)</p> <p>16 Q. You have to answer orally.</p> <p>17 A. Yes.</p> <p>18 Q. So the 40 percent would be 40</p> <p>19 percent of that, what that actual number is?</p> <p>20 A. Yes, but again, I did not authorize</p> <p>21 that sale, so I did not consent to that number</p> <p>22 or that sale.</p> <p>23 Q. I'm just trying to get an</p> <p>24 understanding --</p> <p>25 A. I don't know what she did. I don't</p> |
| <p style="text-align: right;">Page 143</p> <p>1 Ruben Elberg</p> <p>2 Q. 500 million, 50 million, two</p> <p>3 million?</p> <p>4 A. I don't know what she did.</p> <p>5 Q. You don't know the magnitude at</p> <p>6 all?</p> <p>7 A. I don't know what she did. I know</p> <p>8 she claims to have gotten \$27 million.</p> <p>9 Q. Total?</p> <p>10 A. Total.</p> <p>11 Q. And from there, that was used to</p> <p>12 repay capital contributions and liabilities?</p> <p>13 A. No. Liabilities and EB-5 investors</p> <p>14 and, liabilities, EB-5 investors and Class B</p> <p>15 interests were above and beyond that number.</p> <p>16 Q. So 27 was the net amount the estate</p> <p>17 took in?</p> <p>18 A. That's what I would say.</p> <p>19 Q. Leaving aside whether that's where</p> <p>20 it ultimately should go.</p> <p>21 A. That's what she insinuated in the</p> <p>22 merger documents and in front of Judge Ramos.</p> <p>23 Q. So your claim is for 40 percent of</p> <p>24 that number, whatever that actually is?</p> <p>25 A. Class D has a 40 percent profit</p> | <p style="text-align: right;">Page 145</p> <p>1 Ruben Elberg</p> <p>2 want to put myself in a position where I agreed</p> <p>3 to that number, I did not.</p> <p>4 Q. I understand. I'm not suggesting</p> <p>5 you agreed to it. I just want to know the</p> <p>6 number you're fighting over.</p> <p>7 You say that you did not, that she</p> <p>8 sold the Class D interests without your</p> <p>9 permission, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Are you saying that there's an</p> <p>12 actual document somewhere that says the Class D</p> <p>13 interest is being sold?</p> <p>14 A. What the outrageous thing is that,</p> <p>15 she, Pewzner and the EB-5 bundlers who actually</p> <p>16 bought out under a third-party corporation, not</p> <p>17 associated directly with them, they basically</p> <p>18 claimed they're buying 100 percent of all</p> <p>19 interests of the limited partnerships.</p> <p>20 Q. So they just made a general</p> <p>21 statement without --</p> <p>22 A. Without referring to Class D.</p> <p>23 Q. And you think that was essentially</p> <p>24 a clever way of making sure they got everything</p> <p>25 without admitting there was a Class D?</p> |

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| <p style="text-align: right;">Page 146</p> <p>1 Ruben Elberg</p> <p>2 A. That's what they thought.</p> <p>3 Q. Okay, so back to where we started</p> <p>4 this conversation. You said that it was</p> <p>5 represented to Justice Ramos that that 16</p> <p>6 million, let's call it --</p> <p>7 A. No, they said the total amount, all</p> <p>8 the 27 million would go into.</p> <p>9 Q. Are you disputing that the 11</p> <p>10 million roughly contribution by RORE should not</p> <p>11 be taken off the top?</p> <p>12 A. I'm not disputing that. All I'm</p> <p>13 saying is, since I'm a Class C partner -- I'm a</p> <p>14 partner in RORE and RREM as well, those moneys</p> <p>15 are in dispute in the Surrogate's level.</p> <p>16 Q. But you're not only asking for 40</p> <p>17 percent for the Class D interest, you're saying</p> <p>18 that part of the RORE and RREM moneys should</p> <p>19 also come into play?</p> <p>20 A. Because that's where actual moneys</p> <p>21 were put from the taxi corporations to buy the</p> <p>22 real estate.</p> <p>23 Q. And so you're actually therefore</p> <p>24 disputing and claiming part of the 11 million</p> <p>25 return?</p> | <p style="text-align: right;">Page 148</p> <p>1 Ruben Elberg</p> <p>2 account holder or the place where the account</p> <p>3 is?</p> <p>4 A. It's a corporation. So in order</p> <p>5 for you to better understand the way the funds</p> <p>6 transferred from the taxi corporations into the</p> <p>7 LLCs, and then the LLCs were supposed to put</p> <p>8 capital contributions to the limited</p> <p>9 partnerships, so that's what I want to clarify.</p> <p>10 I think it's important.</p> <p>11 MR. McCARTHY: To the extent you</p> <p>12 can, you're writing, to the extent you can,</p> <p>13 please make it oral so it's in the record.</p> <p>14 A. So the \$11.8 million, let's just</p> <p>15 call it \$12 million, were borrowed from the taxi</p> <p>16 corporations. 2.4 was borrowed from the three</p> <p>17 corporations that I'm, my judgment is on, 2.450,</p> <p>18 and the balance was borrowed from my father's</p> <p>19 corporations.</p> <p>20 So these moneys were capital</p> <p>21 contributions to RORE and RREM and to Shefa.</p> <p>22 And these three companies, there is a chart that</p> <p>23 outlines exactly these three companies, who owns</p> <p>24 exactly how much interest in the limited</p> <p>25 partnerships.</p> |
| <p style="text-align: right;">Page 147</p> <p>1 Ruben Elberg</p> <p>2 A. I have to pay back Capital One.</p> <p>3 Q. That I agree with.</p> <p>4 A. I'm not hiding here. I'm trying to</p> <p>5 pay everybody, but I'm facing a problem.</p> <p>6 Q. Understood. I'm just trying to</p> <p>7 figure out what you're fighting over and what</p> <p>8 your claim is.</p> <p>9 Back again to where we started this</p> <p>10 discussion. You don't know where those moneys</p> <p>11 are right now, the \$27 million?</p> <p>12 A. I have a vague idea.</p> <p>13 Q. What's the vague idea that you</p> <p>14 have?</p> <p>15 A. Well, I'm an executor, so she put</p> <p>16 some of the moneys in the Chase accounts that is</p> <p>17 an estate account, and a small portion in a</p> <p>18 Shefa account, that's another estate account,</p> <p>19 really it was part of the transaction, but she</p> <p>20 put it in that account as well.</p> <p>21 Q. Shefa, what's that?</p> <p>22 A. Shefa Funding.</p> <p>23 Q. Shefa Funding?</p> <p>24 A. Yes, S-H-E-F-A.</p> <p>25 Q. You're saying that's the name of an</p> | <p style="text-align: right;">Page 149</p> <p>1 Ruben Elberg</p> <p>2 These companies were supposed to do</p> <p>3 capital contributions to the limited</p> <p>4 partnerships.</p> <p>5 Q. Right.</p> <p>6 A. So basically, she, Pewzner refused</p> <p>7 to put it in escrow as she agreed as she</p> <p>8 represented in front of the Judge, and she put</p> <p>9 it into an estate account, into a Shefa account.</p> <p>10 She left about \$5 million with the</p> <p>11 buyer because the buyer felt they had exposure</p> <p>12 and they wanted to secure their situation. And</p> <p>13 she paid about five or \$6 million in taxes, I</p> <p>14 don't know exactly how much.</p> <p>15 Q. How do you know all this?</p> <p>16 A. This is information that I found</p> <p>17 out through friends who are close. But the two</p> <p>18 accounts I have access to.</p> <p>19 Q. Friends that are close to who?</p> <p>20 A. To the family.</p> <p>21 Q. All right, so the only accounts you</p> <p>22 have access to would be the escrow?</p> <p>23 A. The estate account and Shefa.</p> <p>24 Those I found going through the bank and finding</p> <p>25 those.</p> |

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| <p style="text-align: right;">Page 150</p> <p>1 Ruben Elberg</p> <p>2 Q. Are you a signatory, do you have</p> <p>3 access to the Shefa account?</p> <p>4 A. I am a signatory, but I am not</p> <p>5 allowed to write alone a check from that</p> <p>6 account. She's actually written it alone, but I</p> <p>7 cannot myself.</p> <p>8 Q. Who else?</p> <p>9 A. Pewzner.</p> <p>10 Q. Just your sister?</p> <p>11 A. Yes.</p> <p>12 Q. The Shefa account, that's not</p> <p>13 considered an estate account?</p> <p>14 A. It's part of the estate's assets.</p> <p>15 Q. Because your father owned Shefa?</p> <p>16 A. Yes.</p> <p>17 Q. Did you own Shefa, part of Shefa?</p> <p>18 A. Shefa had received the moneys from</p> <p>19 the cab companies, from my refinancing, my</p> <p>20 father's refinancings, and that money was put</p> <p>21 into Shefa in order for us to buy a note back</p> <p>22 from Rosenthal & Rosenthal and to avoid paying</p> <p>23 double taxes on -- when you borrow money and you</p> <p>24 pay tax, like two and a quarter or two and</p> <p>25 three-quarter percent for loans that you take,</p> | <p style="text-align: right;">Page 152</p> <p>1 Ruben Elberg</p> <p>2 that's your understanding.</p> <p>3 A. They left it with the buyer.</p> <p>4 MR. McCARTHY: Were you a party to</p> <p>5 the sale?</p> <p>6 THE WITNESS: No, I was not.</p> <p>7 Q. And the rest?</p> <p>8 A. I was told she paid some taxes.</p> <p>9 Q. Do you know if those were estate</p> <p>10 taxes?</p> <p>11 A. I don't know what they were for. I</p> <p>12 was not involved in the transaction so I can't</p> <p>13 say. I'm just giving you things that I have</p> <p>14 gotten, you know, really not full.</p> <p>15 Q. The representation made to Justice</p> <p>16 Ramos that these would be in escrow, what was</p> <p>17 supposed to be the terms of the escrow?</p> <p>18 A. That we were both controlling of</p> <p>19 those interests, and that once upon a decision</p> <p>20 came up, that's what the LOI said, that's what</p> <p>21 the merger document said, then we would</p> <p>22 distribute it accordingly. But as she did, she</p> <p>23 did not follow it.</p> <p>24 Q. Have you gone back to Justice Ramos</p> <p>25 to complain that that wasn't done?</p> |
| <p style="text-align: right;">Page 151</p> <p>1 Ruben Elberg</p> <p>2 there is a tax that you pay when you borrow</p> <p>3 money. I don't remember exactly.</p> <p>4 But we tried to avoid that by</p> <p>5 buying the note back through Shefa by paying</p> <p>6 double taxes when we borrow money again.</p> <p>7 Q. Okay.</p> <p>8 A. It was supposed to be part of the</p> <p>9 capital contributions, so I actually own the</p> <p>10 interest of Shefa, but I don't have documents</p> <p>11 because my father and I trusted each other. We</p> <p>12 never nickel and dined each other on paper, we</p> <p>13 trusted each other. He passed away suddenly and</p> <p>14 this situation became out of hand.</p> <p>15 Q. How much money is in the two</p> <p>16 accounts you do have access to, the estate</p> <p>17 account and the Shefa account?</p> <p>18 A. Around 15, \$16 million.</p> <p>19 Q. The rest is --</p> <p>20 A. I don't know.</p> <p>21 Q. Well, there's five million in the</p> <p>22 hands of the buyer?</p> <p>23 A. They gave the buyer. They left</p> <p>24 that with the buyer.</p> <p>25 MR. McCARTHY: Just to be clear,</p> | <p style="text-align: right;">Page 153</p> <p>1 Ruben Elberg</p> <p>2 A. We had mentioned it in front of</p> <p>3 Justice Ramos in one of our proceedings, and</p> <p>4 Justice Ramos, it was as if he didn't hear it.</p> <p>5 She had a former law clerk of</p> <p>6 Justice Ramos working for her as a lawyer. She</p> <p>7 brought him on when she saw herself getting into</p> <p>8 trouble. And she brought in a law clerk, his</p> <p>9 name is Andrew Tulloch, T-U-L-L-O-C-H, and the</p> <p>10 Judge trusted his former law clerk to a point</p> <p>11 where whatever he said, he did for them.</p> <p>12 Q. Do you have a transcript where a</p> <p>13 representation was made of the escrow?</p> <p>14 A. Yes.</p> <p>15 Q. Has that been shown to Justice</p> <p>16 Ramos?</p> <p>17 A. I don't believe it was brought to</p> <p>18 his attention to show him the transcript, no,</p> <p>19 but he was told in a hearing. Clearly I</p> <p>20 remember, I was present at the hearing, that,</p> <p>21 the hearing after the sale -- I remember now.</p> <p>22 They tried to discontinue the case,</p> <p>23 they said that now that everything is sold, they</p> <p>24 wanted to discontinue the case.</p> <p>25 We argued against discontinuing the</p> |

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| <p style="text-align: right;">Page 154</p> <p>1 Ruben Elberg</p> <p>2 case, and one of the things we brought was that</p> <p>3 escrow was not established, and Judge Ramos did</p> <p>4 not even pay attention to it. And he</p> <p>5 discontinued the case, he gave them what they</p> <p>6 wanted.</p> <p>7 Q. Even though it's not being held in</p> <p>8 escrow, do you have an understanding of the</p> <p>9 circumstances under which it will be distributed</p> <p>10 in the future? Is it still the same thing when</p> <p>11 there's a decision on what you're entitled to?</p> <p>12 A. Can you clarify?</p> <p>13 Q. The money is sitting there in an</p> <p>14 estate account and a Shefa account. Do you</p> <p>15 understand under what situation those moneys are</p> <p>16 to be distributed?</p> <p>17 A. Well, I can't say there will be any</p> <p>18 distribution unless the court makes the decision</p> <p>19 or she comes to a settlement, Pewzner comes to a</p> <p>20 settlement.</p> <p>21 Q. Let's say the court makes a</p> <p>22 decision. Is it your understanding that those</p> <p>23 moneys would then get paid to you from those</p> <p>24 accounts?</p> <p>25 A. I don't know what the court will</p> | <p style="text-align: right;">Page 156</p> <p>1 Ruben Elberg</p> <p>2 5 or Motion 6 or 7. These last three motions,</p> <p>3 there should be transcripts there, and there</p> <p>4 should be definitely clear understanding.</p> <p>5 Look at the LOI, letter of intent,</p> <p>6 it's spelled out clearly that the money would be</p> <p>7 put in escrow. And it's also spelled out in the</p> <p>8 merger documents. It's spelled out in the</p> <p>9 transcript, Lieberman made a representation in</p> <p>10 front of the Judge.</p> <p>11 Q. Has there been any statement by</p> <p>12 your sister as to why it's not in escrow?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. Has there been any statement --</p> <p>15 A. They ignored it. When we brought</p> <p>16 it up in front of Judge Ramos, they didn't even</p> <p>17 address that issue.</p> <p>18 Q. Well, when you say in escrow, what</p> <p>19 do you mean by that, are you talking about in a</p> <p>20 special type of account?</p> <p>21 A. JPMorgan Chase was supposed to</p> <p>22 establish an account with all the money that's</p> <p>23 in dispute, and once there is a court decision,</p> <p>24 that the moneys would be distributed</p> <p>25 accordingly.</p> |
| <p style="text-align: right;">Page 155</p> <p>1 Ruben Elberg</p> <p>2 decide. I hope there is a favorable decision in</p> <p>3 my interests.</p> <p>4 Q. Have you sent or anyone on your</p> <p>5 behalf sent any writings to your sister, a</p> <p>6 letter, anything saying the moneys have to be</p> <p>7 held in escrow?</p> <p>8 A. We made the representations in</p> <p>9 court, they knew. They made the</p> <p>10 representations, we made representations the</p> <p>11 money is not in escrow, and it was ignored.</p> <p>12 Q. My question is, did somebody send a</p> <p>13 letter or any other writing on your behalf to</p> <p>14 your sister or her representatives saying this</p> <p>15 money was supposed to be held in escrow?</p> <p>16 A. No. I can't say for sure, I don't</p> <p>17 remember, possibly.</p> <p>18 Q. Or demand they be put into escrow?</p> <p>19 A. I don't remember. I can't say for</p> <p>20 sure.</p> <p>21 Q. Can I get a copy of that transcript</p> <p>22 where they made that representation to Justice</p> <p>23 Ramos?</p> <p>24 A. It's online, it's in Motion 6.</p> <p>25 Wait, I apologize. It should be online, Motion</p> | <p style="text-align: right;">Page 157</p> <p>1 Ruben Elberg</p> <p>2 She paid \$5 million in taxes. She</p> <p>3 left a substantial amount of money with the</p> <p>4 buyers. She put the estate and me in jeopardy,</p> <p>5 and I don't know what else I can say, and all</p> <p>6 the people we owe money to.</p> <p>7 Q. Somewhere you gone to the</p> <p>8 Surrogate's Court to complain about the issue?</p> <p>9 A. I can't discuss that matter, but we</p> <p>10 will be taking action, whatever is necessary in</p> <p>11 due time.</p> <p>12 Q. Well, back to my other question.</p> <p>13 What kind of account did you expect it to be in,</p> <p>14 one where you were a signatory?</p> <p>15 A. Where I had control and she had</p> <p>16 control for the total amount of money.</p> <p>17 Q. But you both had to sign for any</p> <p>18 money to come out?</p> <p>19 A. Yes.</p> <p>20 Q. But that hasn't been done?</p> <p>21 A. No.</p> <p>22 Q. What's your understanding of the</p> <p>23 money in the hands of the buyers, when will that</p> <p>24 be released?</p> <p>25 A. They're concerned that they have</p> |

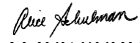
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| <p style="text-align: right;">Page 158</p> <p>1 Ruben Elberg</p> <p>2 liabilities.</p> <p>3 Q. I understand, but that could be</p> <p>4 just for a limited period?</p> <p>5 A. I would say for a year or two or</p> <p>6 three, I don't know.</p> <p>7 Q. You don't know?</p> <p>8 A. I don't have what she agreed with</p> <p>9 them, this is not with my consent.</p> <p>10 Q. Have you asked your sister, have</p> <p>11 you asked the buyer?</p> <p>12 A. I have no communications with her.</p> <p>13 Q. Have you asked the buyer?</p> <p>14 A. I have no communications with them.</p> <p>15 Q. Have you tried?</p> <p>16 A. No, I have not.</p> <p>17 Q. Going back to Exhibit 3, the one in</p> <p>18 front of you, the subpoena. Now, Number 7, I</p> <p>19 assume you didn't look for anything because you</p> <p>20 didn't have any securities?</p> <p>21 A. I do not have any securities.</p> <p>22 Q. You never had any securities?</p> <p>23 A. I can't say that.</p> <p>24 Q. Not since 2012?</p> <p>25 A. No.</p> | <p style="text-align: right;">Page 160</p> <p>1 Ruben Elberg</p> <p>2 I'm not asking that.</p> <p>3 A. I don't want to deny my ownership</p> <p>4 of RORE or, RREM.</p> <p>5 Q. I'm not asking you to that.</p> <p>6 A. No, I just want to be clear.</p> <p>7 Q. Records reflecting ownership of any</p> <p>8 vehicle, have you given us that?</p> <p>9 A. I gave you the 2004 Honda Odyssey.</p> <p>10 Q. You gave us documents on that?</p> <p>11 A. I don't know if I did. If I</p> <p>12 didn't, I'll provide that I own the car.</p> <p>13 Q. So you need to go back and find</p> <p>14 anything about any vehicles you've owned from</p> <p>15 2012 to date?</p> <p>16 A. That's my only vehicle.</p> <p>17 Q. Records reflecting receipt of any</p> <p>18 dividend, partnership distribution, or any other</p> <p>19 form of income, including salary from 2012 to</p> <p>20 date. You gave us your 2012 tax return. What</p> <p>21 about any other documents showing, any other</p> <p>22 kind of income since then?</p> <p>23 A. No, nothing.</p> <p>24 Q. You've had zero, not one penny of</p> <p>25 income?</p> |
| <p style="text-align: right;">Page 159</p> <p>1 Ruben Elberg</p> <p>2 Q. Did you give us --</p> <p>3 A. Excuse me, I might correct that,</p> <p>4 forgive me. Isn't a share ownership in a</p> <p>5 company a security?</p> <p>6 Q. Yes.</p> <p>7 A. Isn't that security? Well, then I</p> <p>8 do have, I don't want to misstate anything or</p> <p>9 deny my ownership. I own 200 shares in Merill,</p> <p>10 I own 200 shares in Spindle, and I own 100</p> <p>11 shares in Jerub. So those are securities I</p> <p>12 believe I supplied you information on or you</p> <p>13 have that information because Capital One is the</p> <p>14 lender.</p> <p>15 Q. Any other securities?</p> <p>16 A. Nothing other than that, no.</p> <p>17 MR. McCARTHY: Your ownership in</p> <p>18 the entities in Paragraph 5, if that is</p> <p>19 deemed a security.</p> <p>20 A. Is that, they are not in share</p> <p>21 ownership, I don't know, is that deemed as</p> <p>22 securities?</p> <p>23 Q. I think you could argue that.</p> <p>24 A. What?</p> <p>25 Q. I think you could argue that, but</p> | <p style="text-align: right;">Page 161</p> <p>1 Ruben Elberg</p> <p>2 A. I told you I've been borrowing</p> <p>3 money from my family, my children unfortunately,</p> <p>4 and this \$350,000.</p> <p>5 Q. There have been no distributions</p> <p>6 out of the estate yet?</p> <p>7 A. No.</p> <p>8 MR. FORSTOT: Why don't we take a</p> <p>9 five-minute break and organize. I'm pretty</p> <p>10 much done, but I have a few more things.</p> <p>11 We'll go off the record.</p> <p>12 (Whereupon, a discussion was held</p> <p>13 off the record.)</p> <p>14 Q. Do you have to pay real estate</p> <p>15 taxes on your house?</p> <p>16 A. Yes.</p> <p>17 Q. How much is that per year?</p> <p>18 A. It's part of the \$2,600 payment.</p> <p>19 Insurance and taxes are part of the \$2,600</p> <p>20 payment.</p> <p>21 Q. The mortgage servicer --</p> <p>22 A. Collects that.</p> <p>23 Q. -- collects that and pays it?</p> <p>24 A. Yes.</p> <p>25 Q. As far as you know, that's all</p> |

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| <p style="text-align: right;">Page 162</p> <p>1 Ruben Elberg</p> <p>2 up-to-date, no arrearages there?</p> <p>3 A. No.</p> <p>4 Q. You're still co-executor of the</p> <p>5 estate of your father, right?</p> <p>6 A. Yes.</p> <p>7 Q. The medallion entities that you</p> <p>8 don't claim an interest in, are those all out on</p> <p>9 the street and working?</p> <p>10 A. Yes.</p> <p>11 Q. Bringing in an income?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know how much that is in</p> <p>14 total per month?</p> <p>15 A. I want to address that. I'm not,</p> <p>16 just like she took the interests of, Pewzner</p> <p>17 took the interest of the real estate and sold it</p> <p>18 without my permission, when my father passed</p> <p>19 away, there was no borrower.</p> <p>20 Since there was no borrower, I had</p> <p>21 to right away, as an executor, I had the</p> <p>22 obligation not to be in default with Capital One</p> <p>23 to transfer the medallions to my mother's name.</p> <p>24 When I did that, I'm facing now a</p> <p>25 problem with potentially Capital One coming</p> | <p style="text-align: right;">Page 164</p> <p>1 Ruben Elberg</p> <p>2 that?</p> <p>3 A. Except Pewzner, nobody.</p> <p>4 Q. Is it your understanding as a</p> <p>5 co-executor of the estate that those other</p> <p>6 medallion entities are no longer part of the</p> <p>7 estate, they're owned by your mother?</p> <p>8 A. They're owned by my mother, but if</p> <p>9 the estate as a guarantor owes something, I</p> <p>10 think those medallions are part of the</p> <p>11 guarantee, because if they owed money -- I don't</p> <p>12 know if I'm understanding you correctly what</p> <p>13 you're asking me.</p> <p>14 Q. Those medallions are in individual</p> <p>15 companies?</p> <p>16 A. Correct.</p> <p>17 Q. The company equity is owned</p> <p>18 presently by the estate or your mother?</p> <p>19 A. My mother.</p> <p>20 Q. I understand the guarantee</p> <p>21 obligation is still with the estate, of course,</p> <p>22 is that what you're confusing?</p> <p>23 A. I just don't want to be personally</p> <p>24 liable for anything for transferring those</p> <p>25 assets early to my mother, but I had to because</p> |
| <p style="text-align: right;">Page 163</p> <p>1 Ruben Elberg</p> <p>2 after the estate that I'm an executor of for</p> <p>3 transferring those assets that were, that had</p> <p>4 Jacob Elberg's personal guarantees of the loans</p> <p>5 of those assets.</p> <p>6 She's been spending all those</p> <p>7 moneys for legal fees and all kinds of things</p> <p>8 that I don't know. I don't know if she's paying</p> <p>9 Capital One, I don't know what she's doing</p> <p>10 there. My mother is --</p> <p>11 MR. McCARTHY: The question was, do</p> <p>12 you know what the medallions are</p> <p>13 generating.</p> <p>14 A. No, I have no control over those</p> <p>15 assets, that's the problem.</p> <p>16 Q. Are you aware of any of them that</p> <p>17 aren't actually on a car and producing income?</p> <p>18 A. I don't have that information.</p> <p>19 Q. Is your mother supervising that?</p> <p>20 A. My mother has a very poor</p> <p>21 understanding of the real reality with the</p> <p>22 documents and understanding loans. She believes</p> <p>23 whatever she's being fed by my sister,</p> <p>24 unfortunately.</p> <p>25 Q. I'm asking, is somebody overseeing</p> | <p style="text-align: right;">Page 165</p> <p>1 Ruben Elberg</p> <p>2 I had no choice. There had to be a borrower or</p> <p>3 else those assets were in default. That's why I</p> <p>4 transferred it to my mother early on.</p> <p>5 Q. Maybe that's why there's a</p> <p>6 confusion. What do you mean there had to be a</p> <p>7 borrower?</p> <p>8 A. Capital One when my father died</p> <p>9 sent us a letter stating that we are in default</p> <p>10 because there is no borrower and there's no</p> <p>11 guarantor.</p> <p>12 My father was the sole borrower and</p> <p>13 guarantor on those medallions. So in order to</p> <p>14 have a face behind the loans, it was eventually</p> <p>15 supposed to be transferred to my mother.</p> <p>16 So we transferred them to my mother</p> <p>17 just to make sure there's a borrower and a</p> <p>18 guarantor for those loans.</p> <p>19 And I don't have control over what</p> <p>20 transpires with expenditures, how Pewzner runs</p> <p>21 those companies.</p> <p>22 Q. So that transfer was something you</p> <p>23 were involved with and you were okay with doing</p> <p>24 it at the time?</p> <p>25 A. I consulted with Mark Gallagher who</p> |

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| <p style="text-align: right;">Page 166</p> <p>1 Ruben Elberg</p> <p>2 is Capital One's attorney, and he advised me we</p> <p>3 had to do this, so I followed his advice because</p> <p>4 I didn't want to be in default.</p> <p>5 Q. Is there something he gave you in</p> <p>6 writing that shows that?</p> <p>7 A. I might have emails. I would have</p> <p>8 to check.</p> <p>9 Q. Other than Capital One, we know</p> <p>10 Capital One is a creditor of your father's</p> <p>11 estate. Are there any other creditors that you</p> <p>12 know of of your father's estate?</p> <p>13 A. I have no control of what Pewzner</p> <p>14 paid or didn't pay. While I was involved, there</p> <p>15 were some creditors. I don't know what of those</p> <p>16 loans or obligations were paid or not, so I</p> <p>17 don't have control over that.</p> <p>18 Q. I'm not asking you about control.</p> <p>19 What do you know of whether it's been paid or</p> <p>20 not, what did you know of the other creditors of</p> <p>21 the estate?</p> <p>22 A. I don't have a recollection now. I</p> <p>23 might have a spreadsheet, but there were, as I</p> <p>24 told you, EB-5 investors, there were loans for</p> <p>25 the real estate with Rosenthal & Rosenthal.</p> | <p style="text-align: right;">Page 168</p> <p>1 Ruben Elberg</p> <p>2 A. I don't recall right now. I'm just</p> <p>3 not settled, forgive me.</p> <p>4 Q. The entities, the medallion</p> <p>5 entities you claim an ownership interest in, do</p> <p>6 they own any assets other than the medallions?</p> <p>7 A. No.</p> <p>8 Q. They don't own any vehicles?</p> <p>9 A. Nothing, no.</p> <p>10 Q. Do they have creditors other than</p> <p>11 Capital One?</p> <p>12 A. No.</p> <p>13 Q. Do you have an understanding how</p> <p>14 much the judgment Capital One has against you?</p> <p>15 A. Yes.</p> <p>16 Q. What do you understand that amount</p> <p>17 to be?</p> <p>18 A. Eight percent, 4.4.</p> <p>19 Q. And you understand interest, post</p> <p>20 judgment interest is running on that?</p> <p>21 A. I want to pay you. Help me pay</p> <p>22 you.</p> <p>23 Q. I'm asking if you know that.</p> <p>24 A. I understand.</p> <p>25 Q. Assuming you don't win on the</p> |
| <p style="text-align: right;">Page 167</p> <p>1 Ruben Elberg</p> <p>2 There were moneys that had to be</p> <p>3 paid back to the medallion companies once a sale</p> <p>4 or a refinancing took place in the real estate.</p> <p>5 Eventually some money had to go back to the taxi</p> <p>6 companies that were borrowed.</p> <p>7 Q. You say the taxi companies, you</p> <p>8 mean the companies that owned the medallions?</p> <p>9 A. Yes. I would say those are</p> <p>10 creditors.</p> <p>11 Q. Any other creditors you're aware</p> <p>12 of?</p> <p>13 A. I'm just telling you off the top of</p> <p>14 my head what I remember, but there might be</p> <p>15 more, I don't know.</p> <p>16 Q. Do you have an amount in mind or</p> <p>17 did you understand what was owed in total to</p> <p>18 creditors other than Capital One of your</p> <p>19 father's estate?</p> <p>20 A. I don't have a number, no. I don't</p> <p>21 remember.</p> <p>22 Q. Did you ever know that?</p> <p>23 A. Possibly, yes, I might have some</p> <p>24 information on that.</p> <p>25 Q. Can you recall any information now?</p> | <p style="text-align: right;">Page 169</p> <p>1 Ruben Elberg</p> <p>2 contested issues between you and your sister,</p> <p>3 what's your thinking about how you might be able</p> <p>4 to pay your debt off to Capital One?</p> <p>5 A. Whether I win or not, the fact is</p> <p>6 there's a trail that the medallions lent money</p> <p>7 to the LLCs, and the moneys were supposed to go</p> <p>8 back to the medallion companies.</p> <p>9 So one way or another, Capital One</p> <p>10 has to get paid, and nobody is trying to duck.</p> <p>11 I want to make sure you get paid, but I need</p> <p>12 your help to be able to achieve that.</p> <p>13 I've never defaulted with Capital</p> <p>14 One with anything until my father passed away,</p> <p>15 and I was continuing to make the payments.</p> <p>16 Capital One sent me emails they</p> <p>17 were going to extend the loans, and instead of</p> <p>18 extending the loans, they started the</p> <p>19 foreclosure action.</p> <p>20 Q. You say you have emails from</p> <p>21 Capital One?</p> <p>22 A. From Capital One, clearly they were</p> <p>23 going to extend the loans, it was supposed to go</p> <p>24 through 2017. They sent me emails.</p> <p>25 Q. Where are those emails today?</p> |

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| <p style="text-align: right;">Page 170</p> <p>1 Ruben Elberg</p> <p>2 A. I have them.</p> <p>3 Q. Anything else as far as you're</p> <p>4 thinking about being able to pay the debt back?</p> <p>5 A. Irrelevant of who owns those</p> <p>6 assets, whether the estate or Class C interest</p> <p>7 or RORE or RREM or the medallion companies,</p> <p>8 there's a track record how the money was flowed,</p> <p>9 the money has to be paid back. I have an</p> <p>10 interest to do that, but I'm being hindered.</p> <p>11 Q. Do you have any thoughts about</p> <p>12 getting a job and paying part of your income</p> <p>13 toward your debts?</p> <p>14 A. I don't think that's going to pay</p> <p>15 you so fast.</p> <p>16 Q. It may not, but I'm asking if you</p> <p>17 have any thoughts about that.</p> <p>18 A. I'm looking at potentially getting</p> <p>19 into the brokerage business, and I have a good</p> <p>20 understanding of real estate. And I'm seriously</p> <p>21 thinking of going into the brokerage, but the</p> <p>22 licensing has not been achieved yet, it's going</p> <p>23 to take a couple of months.</p> <p>24 And I think sooner than that we can</p> <p>25 resolve these issues if we work together in a</p> | <p style="text-align: right;">Page 172</p> <p>1 Ruben Elberg</p> <p>2 house. I can't even borrow against the house</p> <p>3 now.</p> <p>4 Q. Getting a job would get you some</p> <p>5 income.</p> <p>6 A. That's what I'm working on.</p> <p>7 Unfortunately, being tied up with all these</p> <p>8 litigations, I don't want to start working for a</p> <p>9 few thousand dollars a month and not pay four</p> <p>10 and a half million dollars in debt that I have.</p> <p>11 And I have money that's sitting in an account</p> <p>12 that's eventually supposed to be repaying those</p> <p>13 loans.</p> <p>14 Q. You're not going to get a job</p> <p>15 because?</p> <p>16 A. The moneys are in the estate</p> <p>17 account and in the Shefa accounts. I want to</p> <p>18 resolve my obligations. I don't want to be</p> <p>19 haunted by people because I have never, ever,</p> <p>20 ever not paid my bills.</p> <p>21 Q. But getting a job would actually</p> <p>22 help you by starting to reduce the debt a little</p> <p>23 bit.</p> <p>24 A. I'm working on it, I'm working on</p> <p>25 it. Unfortunately, I've been overwhelmed with</p> |
| <p style="text-align: right;">Page 171</p> <p>1 Ruben Elberg</p> <p>2 fair and amicable way to get the truth, and to</p> <p>3 get to the truth and to get you what you</p> <p>4 deserve.</p> <p>5 Q. Have you asked for any loans from</p> <p>6 anybody to try to help pay the debt down?</p> <p>7 A. No. I don't have any, all my</p> <p>8 assets are tied up. When people lend you money,</p> <p>9 they lend you money on assets. All my assets</p> <p>10 are tied up.</p> <p>11 Q. You still have equity in your</p> <p>12 house, right?</p> <p>13 A. Not really, it's practically gone.</p> <p>14 Q. How do you know that if you don't</p> <p>15 know the value of the house?</p> <p>16 A. It's somewhere in the million</p> <p>17 dollar range, you know. What equity do I have</p> <p>18 if I owe \$800,000, what kind of equity do I have</p> <p>19 there, there's practically nothing left.</p> <p>20 Q. Have you asked for a loan to be</p> <p>21 secured by whatever equity you have left?</p> <p>22 A. No, I cannot, and that's because I</p> <p>23 don't have income to prove. I can't even</p> <p>24 refinance my house to prove that I have</p> <p>25 additional income so I can borrow against the</p> | <p style="text-align: right;">Page 173</p> <p>1 Ruben Elberg</p> <p>2 these things.</p> <p>3 Q. When you say overwhelmed with these</p> <p>4 things --</p> <p>5 A. With the litigations.</p> <p>6 Q. It doesn't take up all day every</p> <p>7 day, you can actually work, right, do you agree?</p> <p>8 A. I will work on that. Thank you for</p> <p>9 the recommendation, I will work on it.</p> <p>10 Q. So there are documents you still</p> <p>11 need to get to us. I mean, I don't want to get</p> <p>12 into a dispute whether you made a good faith</p> <p>13 effort to find them.</p> <p>14 MR. FORSTOT: So what I'll do then</p> <p>15 is hold this deposition open.</p> <p>16 Q. When do you think you can get all</p> <p>17 the documents we talked about, the bank</p> <p>18 statements and the other documents to us?</p> <p>19 A. Tell us what you need, and I'll try</p> <p>20 to work on getting it.</p> <p>21 Q. We did send you a letter.</p> <p>22 MR. FORSTOT: I'll send your</p> <p>23 counsel a letter saying these are the</p> <p>24 documents we talked about in the</p> <p>25 deposition. If you like, I can tell you we</p> |

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| <p style="text-align: right;">Page 174</p> <p>1 Ruben Elberg 2 would like them in a week. 3 MR. McCARTHY: For scheduling 4 purposes, I'm going to be out of the 5 country from July 8th to July 18th, so we 6 would like some time beyond that. If I can 7 get them to you before -- 8 MR. FORSTOT: If we get the letter 9 to you this week, we can get some, if not 10 all of them. 11 MR. McCARTHY: I'll try to get them 12 to you. 13 MR. FORSTOT: What I'll do is I'll 14 look at them, and if we don't really have 15 any questions or any questions, we don't 16 have to get together again. But if we do, 17 then we do, just to finish this, all right. 18 Do you have any questions for your 19 client? 20 MR. McCARTHY: No, I don't have any 21 questions. I'm just going to put on the 22 record that I'm going to state my objection 23 to holding it open, but obviously we can 24 come to an agreement. 25 MR. FORSTOT: That's it, we're off</p> | <p style="text-align: right;">Page 176</p> <p>1 2 I N D E X 3 WITNESS EXAMINATION BY PAGE 4 Ruben Elberg Mr. Forstot 4 5 6 E X H I B I T S 7 8 PLAINTIFF'S DESCRIPTION PAGE 9 Exhibit 3 Subpoena duces tecum 58 10 Exhibit 4 Eight pages of Capital One 11 bank statements 70 12 Exhibit 5 Alma Bank Personal 13 Financial Statement 83 14 Exhibit 6 Capital One Bank Personal 15 Financial Statement 85 16 Exhibit 7 Wilshire State Bank 17 Personal Financial 18 Statement 88 19 Exhibit 8 Capital One Bank Personal 20 Financial Statement 88 21 Exhibit 9 2012 1040 U.S. Individual 22 Income Tax Return 102 23 24 REQUESTS 25 26 PAGE LINE 27 155 22</p> |
| <p style="text-align: right;">Page 175</p> <p>1 Ruben Elberg 2 the record. 3 4 [TIME NOTED: 2:19 p.m.] 5 6 RUBEN ELBERG 7 8 Subscribed and sworn to before me 9 this ____ day of _____, 2017. 10 11 12 NOTARY PUBLIC 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">Page 177</p> <p>1 2 CERTIFICATION 3 4 I, Alice Schulman, a Notary Public for and 5 within the State of New York, do hereby certify: 6 That the witness whose testimony as herein 7 set forth, was duly sworn by me; and that the 8 within transcript is a true record of the 9 testimony given by said witness. 10 I further certify that I am not related to 11 any of the parties to this action by blood or 12 marriage, and that I am in no way interested in 13 the outcome of this matter. 14 IN WITNESS WHEREOF, I have hereunto set my 15 hand this 27th day of June, 2017. 16 17 18 19  20 ALICE SCHULMAN 21 22 23 24 25</p> |